RULE MAKING ACTIVITIES

Each rule making is identified by an I.D. No., which consists of 13 characters. For example, the I.D. No. AAM-01-96-00001-E indicates the following:

AAM - the abbreviation to identify the adopting agency
01 - the State Register issue number
96 - the year
00001 - the Department of State number, assigned upon receipt of notice.
E - Emergency Rule Making—permanent action not intended (This character could also be: A for Adoption; P for Proposed Rule Making; RP for Revised Rule Making; EP for a combined Emergency and Proposed Rule Making; EA for an Emergency Rule Making that is permanent and does not expire 90 days after filing.)

Italics contained in text denote new material. Brackets indicate material to be deleted.

Office of Alcoholism and Substance Abuse Services

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

General Service Standards for Chemical Dependence Outpatient (CD-OP) and Opioid Treatment Programs (OTP)

I.D. No. ASA-24-17-00017-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: This rule is proposed pursuant to SAPA section 207(3), 5-Year Review of Existing Rules. Amendment of Part 822 of Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 19.07, 19.09, 19.16, 19.21, 19.40, 22.07, 32.01, 32.02, 32.05, 32.07 and 32.09; Penal Law, section 220.78; Public Health Law, sections 2171, 2781 and 3309

Subject: General service standards for chemical dependence outpatient (CD-OP) and opioid treatment programs (OTP).

Purpose: Conforms HIV and Hepatitis testing in accordance with the Public Health Law; clarifies the services a peer may provide.

Substance of proposed rule (Full text is posted at the following State website: https://www.oasas.ny.gov/regs/index.cfm). This proposal makes amendments to the following sections in response to changes in the Public Health Law related to testing for HIV and Hepatitis-C; to update the definition of peer support services; and, minor technical amendments for clarity and consistency.

§ 822.2(o), (p) and (q) Legal basis. Adds sections 32.02 of the Mental Hygiene Law authorizing the Commissioner to adopt regulations necessary to ensure high quality services to individuals suffering from problem gambling; section 2781 of the Public Health Law related to HIV testing; and, section 2171 of the Public Health Law related to Hepatitis-C testing.

§ 822.5(f)(aa) and (ac) Definitions. Makes technical amendments as needed; removes the outdated definition of “outreach” and, amends the definition of “peer support service” for the purpose of engaging patients prior to program admission.

§ 822.7(a) and (l) General program standards. Amends Policies and Procedures clarifying that providers must be in compliance with state and federal laws pertaining to both Hepatitis and HIV education, prevention, testing and counseling; makes technical amendments as needed; provides that Health Coordinators include discussion of prevention measures such as pre- and post-exposure prophylaxis in HIV education services; adds a new paragraph to ensure clinical staff be provided with documented training on crisis interventions, dealing with special populations, quality improvements and agency policies and procedures.

§ 822.8(a) and (e) Admission, Initial Services, Transfers and Readmissions. Requires all patients be offered HIV and hepatitis testing, which may be conducted either on-site or by referral, as soon as possible after admission; conforms provisions related to offer of HIV/AIDS testing to current Public Health Law; requires consultation with the prescribing provider of a regimen of pre- or post-exposure prophylaxis prior to discontinuing the regimen; clarifies that significant medical issues which must be addressed in the treatment/recovery plan include risk for communicable diseases; requires within one week of admission to an OTP, each patient be educated on HIV prophylaxis.

§ 822.9(g) Communicable disease. Adds a new subdivisions requiring communicable disease risk and treatment, or lack thereof, be documented in the treatment recovery plan.

Text of proposed rule and any required statements and analyses may be obtained from: Carmelita Cruz, Senior Attorney, NYS OASAS, 1250 Western Avenue, Albany, NY 12203, (518) 485-2312, email: Carmelita.Cruz@oasas.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Reasoned Justification for Modification of the Rule:
The proposed rule amends Part 822 to mandate the offer of HIV/AIDS and hepatitis testing, in accordance with public health law. The state has a broad public health interest in ensuring that individuals are tested for HIV and Hepatitis, especially those individuals at increased risk, who routinely access addiction treatment services. This rule will not impact technology, economic conditions or other factors as these programs are already screening individuals admitted to their programs for HIV and Hepatitis risk. The proposed amendment will provide a universal system for all providers to offer the testing, onsite or by referral, and make such notation in the patient chart.

Furthermore, the proposed rule amends the definition of peer support service to clarify the role of certified peer advocates in pre-admission services. The role of peers in engaging people actively using substances is extremely important and the definition of peer support service is amended to provide clarity on the role of peers in engaging individuals for the purposes of entering treatment. This rule will not impact technology, economic conditions or other factors as these programs are already utilizing certified recovery peer advocates for continuing client engagement in treatment after admission.

Regulatory Impact Statement
1. Statutory Authority:
   (a) Section 19.07(c) of the Mental Hygiene Law (MHL) charges the Office with the responsibility to ensure that persons who abuse or are dependent on alcohol and/or substances and their families are provided with care and treatment that is effective and of high quality.
   (b) Section 19.07(e) of the MHL authorizes the commissioner to adopt standards including necessary rules and regulations pertaining to chemical dependence treatment services.
Rule Making Activities

NYS Register/June 14, 2017

3. Needs and Benefits: This regulation responds to changes in the Public Health Law which require the offer of an HIV test. The Public Health Law also mandates the offer of a Hepatitis C test for individuals born between 1945-1965. Given the nature of the services provided to those populations served by OASAS, the majority of individuals served are at-risk and therefore an offer of HIV and Hepatitis testing will be mandated for all individuals admitted to treatment settings. Testing for both Hepatitis and HIV may be done on-site or by referral. The proposed amendments are in accordance with OASAS outpatient and opioid treatment programs providing integrated behavioral health and physical health services. The role of peers in engaging people actively using substances is extremely important and the definition of peer support service is amended to provide clarity on the role of peers in engaging individuals for the purposes of entering treatment.

5. Local Government Mandates: This regulation imposes no new mandates beyond those already existing in statute on local governments operating certified OASAS outpatient and/or opioid treatment programs or local governments whose jurisdiction already includes an outpatient or opioid treatment program.

8. Alternatives: No alternatives. HIV and hepatitis testing is in conformity with the Public Health Law.


10. Compliance Schedule: These regulations will be effective upon publication of a Notice of Adoption in the State Register.

Proposed Rule Analysis

Purpose:

Conforms HIV and Hepatitis testing requirements in residential settings with Public Health Law.

Substance of proposed rule (Full text is posted at the following State website:https://www.oasas.ny.gov/reg/index.cfm): This proposal makes amendments to the following sections in response to changes in the Public Health Law relating to testing for HIV and Hepatitis-C testing.

§ 820.1 Legal basis. Adds sections 2771 and 2181 of the Public Health Law relating to HIV and Hepatitis-C testing.

§ 820.5(a) and (b) General Program Standards. Adds reference to HIV and Hepatitis education and prevention; adds generic term for Naloxone (naloxone).

§ 820.6(c) and (d) Staffing. Requires all clinical staff be provided with and document specialized training in identified areas; regarding HIV and AIDS, clarifies the duties of a Health Coordinator to provide information about both pre- and post-exposure precautions.

§ 820.7(b) Assessment. Requires all patients be offered Hepatitis testing, either on site or by referral, as soon as possible after admission; conforms provisions related to offer of HIV-AIDS testing to current Public Health Law; requires consultation with prescriber prior to modifying HIV prophylaxis medications. Clarifies that significant medical issues which must be addressed in a treatment/recovery plan include risk for communicable diseases.

Residential Services

LD. No. ASA-24-17-00018-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: This rule is proposed pursuant to SAPA section 207(3), 5-Year Review of Existing Rules. Amendment of Part 820 of Title 14 N.Y.C.R.R.

Statutory authority: Mental Hygiene Law, sections 19.07, 19.09, 19.40, 32.01 and 32.07; Public Health Law, sections 2717 and 2781

Subject: Residential services.

§ 820.1 Legal basis. Adds sections 2771 and 2181 of the Public Health Law relating to HIV and Hepatitis-C testing.

§ 820.5(a) and (b) General Program Standards. Adds reference to HIV and Hepatitis education and prevention; adds generic term for Naloxone (naloxone).

§ 820.6(c) and (d) Staffing. Requires all clinical staff be provided with and document specialized training in identified areas; regarding HIV and AIDS, clarifies the duties of a Health Coordinator to provide information about both pre- and post-exposure precautions.

§ 820.7(b) Assessment. Requires all patients be offered Hepatitis testing, either on site or by referral, as soon as possible after admission; conforms provisions related to offer of HIV-AIDS testing to current Public Health Law; requires consultation with prescriber prior to modifying HIV prophylaxis medications. Clarifies that significant medical issues which must be addressed in a treatment/recovery plan include risk for communicable diseases.
§ 820.12(b) Admission criteria. Renumbering.

Text of proposed rule and any required statements and analyses may be obtained from: Carmelita Cruz, Senior Attorney, NYS Office of Alcoholism and Substance Abuse Services, 1450 Western Avenue, Albany, NY 12203, (518) 485-2312, email: Carmelita.Cruz@oasas.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Reasoned Justification for Modification of the Rule:

The proposed rule amends Part 820 to mandate the offer of HIV/AIDS and hepatitis testing, in accordance with public health law. The state has a broad public health interest in ensuring that individuals are tested for HIV and Hepatitis, especially those individuals at increased risk, who routinely access addiction treatment services. This rule will not impact technology, economic conditions or other factors as these programs are already screening individuals admitted to their programs for HIV and Hepatitis risk. The proposed amendment will provide a universal system for all providers to offer the testing, onsite or by referral, and make such notation in the patient chart.

Regulatory Impact Statement

1. Statutory Authority:
   (a) Section 1910(e) of the Mental Hygiene Law authorizes the Commissioner of the Office of Alcoholism and Substance Abuse Services to adopt standards including necessary rules and regulations pertaining to chemical dependence services.
   (b) Section 19.09(b) of the Mental Hygiene Law authorizes the Commissioner of the Office of Alcoholism and Substance Abuse Services to adopt regulations necessary and proper to implement any matter under his or her jurisdiction.
   (c) Section 19.40 of the Mental Hygiene Law authorizes the Commissioner of the Office of Alcoholism and Substance Abuse Services to issue operating certificates for the provision of chemical dependence services.
   (d) Section 32.01 of the Mental Hygiene Law authorizes the Commissioner of the Office of Alcoholism and Substance Abuse Services to adopt any regulation reasonably necessary to implement and effectively exercise the powers and perform the duties conferred by article 32 of the Mental Hygiene Law.
   (e) Section 32.07(a) of the Mental Hygiene Law authorizes the Commissioner of the Office of Alcoholism and Substance Abuse Services to adopt regulations to effectuate the provisions and purposes of article 32 of the Mental Hygiene Law.
   (f) Section 2781 of the Public Health Law defines the rules governing Hepatitis-C testing in New York.
   (g) Section 2781 of the Public Health Law defines the rules governing HIV testing in New York.

2. Legislative Objectives: The Proposed Rule Amends Part 820 to mandate the offer of HIV/AIDS and hepatitis testing, in accordance with the Public Health Law. The state has a broad public health interest in ensuring that individuals are tested for HIV and Hepatitis, especially those individuals at increased risk and who routinely access addiction treatment services.

3. Needs and Benefits: This regulation responds to changes in the Public Health Law which require the offer of an HIV test. The Public Health Law also mandates the offer of a Hepatitis-C test for individuals born between 1945-1965. Given the nature of the services provided to those populations served by OASAS, the majority of individuals served are at-risk and therefore an offer of HIV and hepatitis testing will be mandated for all individuals admitted to residential settings. Testing for both hepatitis and HIV may be done on-site or by referral. The proposed amendments are in accordance with OASAS residential programs providing integrated behavioral health and physical health service delivery models of care.

4. Costs: The Office anticipates no fiscal impact on providers or local governments, job creation or job loss, because the provisions require an offer of testing which may be conducted on-site or by referral if testing cannot be conducted on-site.

5. Paperwork: The proposed regulatory amendments will not require additional paperwork because residential treatment providers would utilize existing treatment planning and discharge administrative processes.

6. Local Government Mandates: This regulation imposes no new mandates beyond those already existing in statute on local governments operating certified OASAS residential programs or local governments whose jurisdiction includes a residential facility.

7. Duplications: This proposed rule does not duplicate any state or federal statute or rule.

8. Alternatives: No alternatives. HIV and hepatitis testing is in conformity with the Public Health Law.


10. Compliance Schedule: These regulations will be effective upon publication of a Notice of Adoption in the State Register.

Regulatory Flexibility Analysis

OASAS has determined that the rule will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments. This rulemaking proposal has been reviewed and approved (April 24, 2017) by the Behavioral Health Services Advisory Council consisting of affected OASAS providers of all sizes from diverse municipalities, and including local governments. The proposal is supported by providers because it conforms HIV and Hepatitis testing with current Public Health Law.

Rural Area Flexibility Analysis

OASAS has determined that the rule will not impose any adverse impact on rural areas or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas. This rulemaking proposal has been reviewed and approved (April 24, 2017) by the Behavioral Health Services Advisory Council consisting of affected OASAS providers of all sizes from diverse municipalities, and including local governments. The proposal is supported by providers because it conforms HIV and Hepatitis testing with current public health practice and the Public Health Law.

Job Impact Statement

OASAS is not submitting a Job Impact Statement for this rulemaking. OASAS does not anticipate a substantial adverse impact on jobs and employment opportunities because the requirements for this service are already met by certain staff operating in certified residential programs.

Office of Children and Family Services

NOTICE OF ADOPTION

Minimum Pre-Service, Orientation Health and Safety Training Requirements in Child Day Care Programs

L.D. No. CFS-14-17-00003-A

Filing No. 375

Filing Date: 2017-05-25

Effective Date: 2017-06-14

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of sections 414.14, 415.4, 416.14, 417.14, 418.14 and 418.2.14 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(3)(d), 34(3)(f), 390(2)-a(a), 390(3)-a, 410(1) and 410-x(3)

Subject: Minimum pre-service, orientation health and safety training requirements in child day care programs.

Purpose: To implement minimum pre-service, orientation health and safety training requirements in child day care programs.

Text or summary was published in the April 5, 2017 issue of the Register, L.D. No. CFS-14-17-00003-EP.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Leslie Robinson, New York State Office of Children and Family Services, 52 Washington Street, Rensselaer, New York 12144, (518) 474-3333, email: regcomments@ocfs.ny.gov

Initial Review of Rule

As a rule that requires a RAFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2020, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.
Department of Economic Development

EMERGENCY RULE MAKING

Empire Zones Reform

I.D. No. EDV-24-17-00002-E
Filing No. 376
Filing Date: 2017-05-26
Effective Date: 2017-05-26

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Parts 10 and 11; renumbering and amendment of Parts 12 through 14 to Parts 13, 15 and 16; and addition of new Parts 12 and 14 to Title 5 NYCRR.


Finding of necessity for emergency rule: Preservation of general welfare.

Specific reasons underlying the finding of necessity: Regulatory action is needed immediately to implement the statutory changes contained in Chapter 57 of the Laws of 2009. The emergency rule also clarifies the administrative procedures of the program, improves efficiency and helps make it more cost-effective and accountable to the State’s taxpayers, particularly in light of New York’s current fiscal climate. It bears noting that General Municipal Law section 959(a), as amended by Chapter 57 of the Laws of 2009, expressly authorizes the Commissioner of Economic Development to adopt emergency regulations to govern the program.

Subject: Empire Zones reform.

Purpose: Allow Department to continue implementing Zones reforms and adopt changes that would enhance program’s strategic focus.

Substance of emergency rule (Full text is posted at the following State website: https://esd.ny.gov/empire-zones-program): The emergency rule is the result of changes to Article 18-B of the General Municipal Law pursuant to Chapter 63 of the Laws of 2000, Chapter 63 of the Laws of 2005, and Chapter 57 of the Laws of 2009. These laws, which authorize the empire zones program, were changed to make the program more effective and less costly through higher standards for entry into the program and for continued eligibility to remain in the program. Existing regulations fail to address these requirements and the existing regulations contain several outdated references. The emergency rule will correct these items.

The rule contained in 5 NYCRR Parts 10 through 14 (now Parts 10-16 as amended), which governs the empire zones program, is amended as follows:

1. The emergency rule, tracking the requirements of Chapter 63 of the Laws of 2005, requires placement of zone acreage into “distinct and separate contiguous areas.”

2. The emergency rule updates several outdated references, including: the name change of the program from Economic Development Zones to Empire Zones, the replacement of Standard Industrial Codes with the North American Industrial Codes, the renaming of census-tract zones as investment zones, the renaming of county-created zones as development zones, and the replacement of the Job Training Partnership Act (and private industry councils) with the Workforce Investment Act (and local workforce investment boards).

3. The emergency rule adds the statutory definition of “cost-benefit analysis” and provides for its use and applicability.

4. The emergency rule also adds several other definitions (such as applicant municipality, chief executive, concurrent municipality, empire zone capital tax credits or zone capital tax credits, clean energy research and development enterprise, change of ownership, benefit-cost ratio, capital investments, single business enterprise and regionally significant project) and conforms several existing regulatory definitions to statutory definitions, including zone equivalent areas, women-owned business enterprise, minority-owned business enterprise, qualified investment project, zone development plans, and significant capital investment projects.

5. The emergency rule also clarifies regionally significant project eligibility. Additionally, the emergency rule makes reference to the following tax credits and exemptions: the Qualified Empire Zone Enterprise (“QEZE”) Real Property Tax Credit, QEZE Tax Reduction Credit, and the QEZE Sales and Use Tax Exemption. The emergency rule also reflects the eligibility of agricultural cooperatives for Empire Zone tax credits and the QEZE Real Property Tax Credit.

6. The emergency rule requires additional statements to be included in an application for empire zone designation, including (i) a statement from the applicant and local economic development entity regarding the zone’s integration and cooperation of resources and services for the purpose of providing support for the zone administrator, and (ii) a statement from the applicant that there is no viable alternative area available that has existing public sewer or water infrastructure other than the proposed zone.

7. The emergency rule amends the existing rule in a manner that allows for the designation of nearby lands in investment zones to exceed 320 acres, upon the determination by the Department of Economic Development that certain conditions have been satisfied.

8. The emergency rule provides a description of the elements to be included in a zone development plan and requires that the plan be resubmitted by the local zone administrative board as economic conditions change within the zone. Changes to the zone development plan must be approved by the Commissioner of Economic Development (“the Commissioner”). Also, the rule adds additional situations under which a business enterprise may be granted a shift resolution.

9. The emergency rule grants discretion to the Commissioner to determine the contents of an empire zone application form.

10. The emergency rule tracks the amended statute’s deletion of the category of contributions to a qualified Empire Zone Regional Corporation from those businesses eligible for the Zone Capital Credit.

11. The emergency rule reflects statutory changes to the process to revise a zone’s boundaries. The primary effect of this is to limit the number of boundary revisions to one per year.

12. The emergency rule describes new eligibility standards for certification. The new factors which may be considered by the Commissioner when deciding whether to certify a firm is (i) whether a non-manufacturing applicant firm projects a benefit-cost ratio of at least 20:1 for the first three years of certification, (ii) whether a manufacturing applicant firm projects a benefit-cost ratio of at least 10:1 for the first three years of certification, and (iii) whether the business enterprise conforms with the zone development plan.

13. The emergency rule adds the following new justifications for decertification of firms: (a) the business enterprise, that has submitted at least three years of business annual reports, has failed to provide economic returns to the State in the form of total remuneration to its employees, wages and benefits; (b) the business enterprise is in violation of laws regulating unemployment insurance, workers’ compensation, public work, child labor, employment of minorities and women, safety and health, or other laws for the protection of workers as determined by a violation of a judicial or administrative proceeding; (c) the business enterprise may be granted a shift resolution.

NYS Register/June 14, 2017

Rule Making Activities
The emergency rule provides that the Commission may revoke the certification of a firm under one of the other criteria for revocation of certification set forth in the rule.

14. The emergency rule adds a new Part 12 implementing record-keeping requirements. Any firm choosing to participate in the Empire zones program must maintain and have available, for a period of six years, all information related to the application and business annual reports.

15. The emergency rule clarifies the statutory requirement from Chapter 63 of the Laws of 2005 that development zones (formerly census tract) zones create up to three areas within their reconfigured zones as investment (formerly census tract) zones. The rule would require that 75% of the acreage used to define these investment zones be included within an eligible or contiguous census tract. Furthermore, the rule would not require a development zone to place investment zone acreage within a municipality in that county if that particular municipality already contained an investment zone, and the only eligible census tracts were contained within that municipality.

16. The emergency rule tracks the statutory requirements that zones reconfigure their existing acreage in up to three (for investment zones) or six (for development zones) distinct and separate contiguous areas, and that zones may allocate the total allotted acreage at the time of designation. These reconfigured zones must be presented to the Empire Zones Designation Board for unanimous approval. The emergency rule makes clear that zones may not necessarily designate all of their acreage into three or six areas or use all of their allotted acreage; the rule removes the requirement that any subsequent additions after their official redesignation by the Designation Board will still require unanimous approval by that Board.

17. The emergency rule clarifies the statutory requirement that certain defined “regionally significant” projects can be located outside of the distinct and separate contiguous areas. There are four categories of projects: (i) a manufacturer projecting the creation of fifty or more net new jobs in the State of New York; (ii) an agri-business or high tech or biotech business making a capital investment of ten million dollars and creating twenty or more new jobs in the State of New York, (iii) a financial or insurance services or distribution center creating three hundred or more net new jobs in the State of New York, and (iv) a clean energy research and development enterprise. Other projects may be considered by the zone designation board. Only one category of projects, manufacturers projecting the creation of 50 or more net new jobs, are allowed to progress before the identification of the distinct and separate contiguous areas and/or the approval of certain regulations by the Empire Zones Designation Board. Regionally significant projects that fall within the four categories listed above must be projects that are exporting 60% of their goods or services outside the region and export a substantial amount of goods or services beyond the State.

18. The emergency rule clarifies the status of community development projects as a result of the statutory reconfiguration of the zones.

19. The emergency rule clarifies the provisions under Chapter 63 of the Laws of 2005 that allow for zone-adapted businesses which will be located outside of the distinct and separate contiguous areas to receive zone benefits until decertified. The area which will be “grandfathered” shall be limited to the expansion of the certified business within the parcel or portion thereof that was originally located in the zone before redesignation. Each zone must identify any such business by December 30, 2005.

20. The emergency rule elaborates on the “demonstration of need” requirement mentioned in Chapter 63 of the Laws of 2005 for the addition (for both investment and development zones) of an additional distinct and separate contiguous area. A zone can demonstrate the need for a fourth or, as the case may be, a seventh distinct and separate contiguous area if (1) there is insufficient existing or planned infrastructure within the three (or six) distinct and separate contiguous areas to accommodate development of strategic businesses as defined in the local development plan, or (2) placing all acreage in the other three or six distinct and separate contiguous areas would be inconsistent with open space and wetland protection, or (3) there are insufficient lands available for further business development within the other distinct and separate contiguous areas.

This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires August 23, 2017.

Text of rule and any required statements and analyses may be obtained from: Thomas P. Regan, NYS Department of Economic Development, 625 Broadway, Albany, NY 12245, (518) 292-5123, email: thomas.regan@esd.ny.gov

Regulatory Impact Statement

STATUTORY AUTHORITY:
Section 959(a) of the General Municipal Law authorizes the Commissioner of Economic Development to adopt on an emergency basis rules and regulations governing the criteria for eligibility for empire zone designation, the application and certification procedures of a business enterprises as to eligibility of benefits under the program and the decertification of a business enterprise so as to revoke the certification of business enterprises for benefits under the program.

LEGISLATIVE OBJECTIVES:

The rulemaking accords with the public policy objectives the Legislature sought to advance because the majority of such revisions are in direct response to statutory amendments and the remaining revisions either conform to regulations adopted in an existing statute or clarify administrative procedures of the program. These amendments further the Legislative goals and objectives of the Empire Zones program, particularly as they relate to regionally significant projects, the cost-benefit analysis, and the process of certification and decertification of business enterprises. The proposed amendments to the rule will facilitate the administration of this program in a more efficient, effective, and accountable manner.

NEEDS AND BENEFITS:

The emergency rule is required in order to implement the statutory changes contained in Chapter 57 of the Laws of 2009. The emergency rule also clarifies the administrative procedures of the program, improves efficiency and helps make it more cost-effective and accountable to the State’s taxpayers, particularly in light of New York’s current fiscal climate.

COSTS:
A. Costs to private regulated parties: None. There are no regulated parties in the Empire Zones program, only voluntary participants.
B. Costs to the agency, the state, and local governments: There will be additional costs to the Department of Economic Development associated with the probable emergency rule requiring the certification of personnel that may need to be hired to implement the Empire Zones program reforms. There may be savings for the Department of Labor associated with the streamlining of the State’s administration and concentration of authority within the Department of Economic Development. There is no additional cost to local governments.
C. Costs to the State government: None. There will be no additional costs to New York State as a result of the emergency rule making.

LOCAL GOVERNMENT MANDATES:
None. Local governments are not mandated to participate in the Empire Zones program. If a local government chooses to participate, there is a cost associated with local administration that local government officials agreed to bear at the time of application for designation as an Empire Zone. One of the requirements for designation was a commitment to local administration and an identification of local resources that would be dedicated to local administration.

This emergency rule does not impose any additional costs to the local governments for administration of the Empire Zones program.

PAPERWORK:
The emergency rule imposes new record-keeping requirements on businesses choosing to participate in the Empire Zones program. The emergency rule requires all businesses that participate in the program to establish and maintain complete and accurate books relating to their participation in the Empire Zones program for a period of six years.

DUPLICATION:
The emergency rule conforms to provisions of Article 18-B of the General Municipal Law and does not otherwise duplicate any state or federal statutes or regulations.

ALTERNATIVES:
No alternatives were considered with regard to amending the regulations in response to statutory revisions.

FEDERAL STANDARDS:
There are no federal standards in regard to the Empire Zones program. Therefore, the emergency rule does not exceed any Federal standard.

COMPLIANCE SCHEDULE:
The period of time the state needs to assure compliance is negligible, and the Department of Economic Development expects to be compliant immediately.

Regulatory Flexibility Analysis

1. Effect of rule
The emergency rule imposes new record-keeping requirements on small businesses and large businesses choosing to participate in the Empire Zones program. The emergency rule requires all businesses that participate in the program to establish and maintain complete and accurate books relating to their participation in the Empire Zones program for a period of six years. Local governments are unaffected by this rule.

2. Compliance requirements
Each small business and large business choosing to participate in the Empire Zones program must establish and maintain complete and accurate books, records, documents, accounts, and other evidence relating to such businesses’ application for entry into the Empire Zone program and relating to existing annual reporting requirements. Local governments are unaffected by this rule.
Rule Making Activities

3. Professional services
No professional services are likely to be needed by small and large businesses in order to establish and maintain the required records. Local governments are unaffected by this rule.

4. Compliance costs
No initial capital costs are likely to be incurred by small and large businesses choosing to participate in the Empire Zones program. Annual compliance costs are estimated to be negligible for both small and large businesses. Local governments are unaffected by this rule.

5. Economic and technological feasibility
The Department of Economic Development ("DED") estimates that complying with this record-keeping is both economically and technologically feasible. Local governments are unaffected by this rule.

6. Minimizing adverse impact
DED finds no adverse economic impact on small or large businesses with respect to this rule. Local governments are unaffected by this rule.

7. Small business and local government participation
DED is in full compliance with SAPA Section 202-b(6), which ensures that small businesses and local governments have an opportunity to participate in the rule-making process. DED has conducted outreach within the small and large business communities and maintains continuous contact with small businesses and large businesses with regard to their participation in this program. Local governments are unaffected by this rule.

Education Department

EMERGENCY

RULE MAKING

Eliminate Academic Literacy Skills Test for Teacher Certification, Remove Unnecessary References to Liberal Arts and Science

I.D. No. EDU-13-17-00014-E
Filing No. 383
Filing Date: 2017-05-30
Effective Date: 2017-06-11

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Part 80 of Title 8 NYCRR.

Statutory authority: Education Law, sections 207, 305, 3001, 3003, 3004 and 3009

Finding of necessity for emergency rule: Preservation of general welfare. Specific reasons underlying the finding of necessity: As a result of feedback the Board of Regents received from public forums across the State and based upon recommendations from the edTPA Task Force, the proposed amendment eliminates the requirement to take and pass the Academic Literacy Skills Test in order to obtain an initial teaching certificate.

Since the Board of Regents meets at fixed intervals, the earliest the proposed rule can be presented for regular (non-emergency) adoption, after expiration of the required 45-day public comment period provided for in State Administrative Procedure Act (SAPA) section 202(4-a), is the June 2017 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date for the proposed rule, if adopted at the June meeting would be June 28, 2017, the date a Notice of Adoption would be published in the State Register. Emergency action is therefore needed at the May 2017 meeting to ensure that the emergency rule adopted at the March meeting, which will expire on June 10, 2017, remains continuously in effect until it can be adopted as a permanent rule. It is also necessary to ensure that candidates applying for an initial teaching certificate are aware that they will no longer be required to take and pass the ALST to obtain certification, and therefore will not have to pay a fee for the examination.

It is anticipated that the emergency rule will be presented to the Board of Regents for adoption as a permanent rule at the June 2017 Regents meeting, which is the first scheduled meeting after expiration of the 45-day public comment period mandated by the State Administrative Procedure Act for proposed rulemakings and will become effective as a permanent rule on June 28, 2017.

Subject: Eliminate Academic Literacy Skills Test for teacher certification, remove unnecessary references to liberal arts and science.

Purpose: To implement the recommendations of the edTPA Task Force.

Text of emergency rule: 1. Subdivision (c) of section 80-1.5 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(c) Except as otherwise prescribed in this subdivision, notwithstanding any applicable provisions of Subparts 80-1, 80-3, 80-4 and 80-5 of this Part or any other provisions of law or regulation to the contrary, a candidate who applies for and meets all the requirements for a certificate on or before June 30, 2018, except that such candidate does not achieve a satisfactory level of performance on one or more of the new certification examinations ([the academic literacy skills test and/or the teacher performance assessment]) the teacher performance assessment or the revised content specialty examination(s), as prescribed by the Commissioner, that is/are required for the certificate title sought, may instead use one or more of the following safety net options, in lieu of taking, retaking one or more of such new and/or revised examinations:

1. Teacher performance assessment. A candidate who takes and fails to achieve a satisfactory level of performance on the teacher performance assessment (after completing and submitting for scoring the teacher performance assessment), may, in lieu of retaking the teacher performance assessment:

(i) receive a satisfactory score on the written assessment of teaching skills after receipt of his/her score on the teacher performance assessment and prior to [June 30, 2017] either the date a new passing score for the edTPA is approved by the Commissioner after a recommendation is made by a new standard setting panel or June 30, 2018, whichever is earlier; or

(ii) pass the written assessment of teaching skills on or before April 30, 2014 (before the new certification examination requirements became effective), provided the candidate has taken and failed the teacher performance assessment prior to [June 30, 2017] either the date a new passing score for the edTPA is approved by the Commissioner after a recommendation is made by a new standard setting panel, or June 30, 2018, whichever is earlier.

2. [Academic Literacy Skills Test. A candidate who takes and fails to achieve a satisfactory level of performance on the academic literacy skills test may, in lieu of retaking the academic literacy skills test, submit an attestation on or before June 30, 2017, on a form prescribed by the commissioner, attesting that the candidate has:

(i) demonstrated comparable skills to what is required by the academic literacy skills test through course completion by completing a minimum of three semester hours in coursework satisfactorily to the commissioner; and

(ii) received a cumulative grade of a 3.0 or higher, or the substantial equivalent, in such coursework.

3] [Content specialty test.

(i) . . .

(ii) . . .

(iii) . . .

(iv) . . .

2. Subparagraph (iii) of paragraphs (1) of subdivision (c) of section 80-3.4 of the Regulations of the Commissioner of Education shall be repealed.

3. Subparagraph (iii) of paragraphs (2) of subdivision (c) of section 80-3.4 of the Regulations of the Commissioner of Education shall be repealed.

4. Clause (a) of subparagraph (i) of paragraph (3) of subdivision (b) of section 80-3.4 of the Regulations of the Commissioner of Education shall be repealed and clause (b) of subparagraph (i) of paragraph (3) of subdivi-
tion (b) of section 80-3.4 of the Regulations of the Commissioner of Education shall be renumbered as clause (a) of subparagraph (i) of paragraph (3) of subdivision (b) of section 80-3.4 of the Regulations of the Commissioner of Education.

5. Subparagraph (ii) of paragraph (2) of subdivision (a) of section 80-5.22 of the Regulations of the Commissioner of Education shall be renumbered as subparagraph (ii) of paragraph (2) of subdivision (a) of section 80-5.22 of the Regulations of the Commissioner of Education.

6. Sections 80-5.10 and 80-5.11 of the Regulations of the Commissioner of Education shall be repealed.

7. Paragraph (3) of subdivision (b) of section 80-3.9 of the Regulations of the Commissioner of Education shall be repealed and paragraph (4) shall be renumbered as paragraph (3) of subdivision (b) of section 80-3.9 of the Regulations of the Commissioner of Education.

8. Paragraph (2) of subdivision (b) of section 80-5.14 of the Regulations of the Commissioner of Education shall be amended, to read as follows:

(2) Examination.

(i) A candidate who applies for a Transitional C certificate on or before April 30, 2014 and who has completed all other requirements for a Transitional C certificate on or before April 30, 2014, shall submit evidence of having achieved a satisfactory level of performance on the New York State Teacher Certification Examination liberal arts and sciences test, and content specialty test(s) in the area of the certificate. Successful completion of the content specialty test is required for the certificate title.

(ii) Candidates who apply for a Transitional C certificate on or after May 1, 2014 or who apply for a Transitional C certificate on or before April 30, 2014 but who have not completed all requirements for a Transitional C certificate on or before April 30, 2014, shall submit evidence of having achieved a satisfactory level of performance on the [academic literacy skills test, the educating all students test and the content specialty test(s) in the area of the certificate.

(iii) Candidates who apply for a Transitional C certificate on or after May 1, 2014 or who apply for a Transitional C certificate on or before April 30, 2014 but who have not completed all requirements for a Transitional C certificate on or before April 30, 2014, shall submit evidence of having achieved a satisfactory level of performance on the [academic literacy skills test, the educating all students test and the content specialty test(s) in the area of the certificate.

9. Subparagraph (i) of paragraph (2) of subdivision (b) of section 80-3.3 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(i) [Except as otherwise provided in this subdivision, for candidates who have completed all requirements for a Transitional C certificate on or before April 30, 2014 and who apply for certification on or before April 30, 2014, the candidate shall submit evidence of having achieved a satisfactory level of performance on the New York State Teacher Certification Examination liberal arts and sciences test, written assessment of teaching skills, and content specialty test(s) in the area of the certificate.]

(ii) Candidates who apply for certification on or before April 30, 2014, and who have completed all other requirements for a Transitional C certificate on or before April 30, 2014, shall submit evidence of having achieved a satisfactory level of performance on the New York State Teacher Certification Examination liberal arts and sciences test, written assessment of teaching skills, and content specialty test(s) in the area of the certificate. Successful completion of the content specialty test is required for the certificate title. Successful completion of the content specialty test is required in the area of the certificate shall not be required for the [Transitional B] Transiational B certificate authorizing the teaching of English to speakers of other languages, students with disabilities, students who are deaf or hard-of-hearing, students with speech and language disabilities, or for an extension of a transitional B certificate in bilingual education. Instead, the candidate shall submit evidence of having achieved a satisfactory level of performance on a New York State teacher certification examination content specialty test prescribed by the Commissioner.

(b) A candidate who applies for a Transitional B certificate on or after May 1, 2014 or a candidate who applies for a Transitional B certificate on or before April 30, 2014 but who does not meet all the requirements for a Transitional B certificate on April 30, 2014 shall submit evidence of having achieved a satisfactory level of performance on the New York State teacher certification examination [academic literacy skills test, the educating all students test and the content specialty test(s) in the area of the certificate.]

10. Subparagraph (ii) of paragraph (2) of subdivision (a) of section 80-5.13 of the Regulations of the Commissioner of Education, shall be amended, to read as follows:

(ii) Examination.

(a) [A candidate who applies for a Transitional B certificate on or before April 30, 2014 and who meets all the requirements for a Transitional B certificate on or before April 30, 2014, shall submit evidence of having achieved a satisfactory level of performance on the New York State teacher certification examination liberal arts and sciences test, and the content specialty test(s) in the area of the certificate, where such content specialty test is required for the certificate title on or before April 30, 2014. Successful completion of the content specialty test in the area of the certificate shall not be required for the transitional B certificate authorizing the teaching of English to speakers of other languages, students with disabilities, students who are deaf or hard-of-hearing, students who are blind or visually impaired, or students with speech and language disabilities, or for an extension of a transitional B certificate in bilingual education. Instead, the candidate shall submit evidence of having achieved a satisfactory level of performance on a New York State teacher certification examination content specialty test prescribed by the Commissioner.]
This notice is intended to serve only as a notice of emergency adoption. This notice is intended to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. EDU-13-17-00014-EP, Issue of March 29, 2017. The emergency rule will expire July 28, 2017.

Text of rule and any required statements and analyses may be obtained from: Kirit Goswami, State Education Department, Office of Counsel, 89 Washington Avenue, Room 148, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

Regulatory Impact Statement

1. STATUTORY AUTHORITY:

Education Law 207(not subdivided) grants general rule-making authority to the Regents to carry into effect State educational laws and policies. Education Law 207(1) (not subdivided) authorizes the Regents to register domestic and foreign institutions in terms of New York standards.

Education Law 305(1) authorizes the Commissioner to enforce laws relating to the State educational system and execute Regents educational policies. Section 305(2) provides the Commissioner with general supervision over schools and authority to guide district officers in their duties and the general management of their schools.

Education Law 3001 establishes the qualifications of teachers in the classroom.

Education Law 3004(1) authorizes the Commissioner to promulgate regulations governing the certification requirements for teachers employed in public schools.

Education Law 3009 prohibits school district money from being used to pay the salary of an unqualified teacher.

2. LEGISLATIVE OBJECTIVES:

The proposed emergency rule is necessary to implement recommendations from the edTPA Task Force, which was reconvened at the request of the Board of Regents, to eliminate the Academic Literacy Skills Test (ALST) for teacher certification, revise the Educating All Students Test (EAS) and make potential changes to the passing score for the edTPA.

3. NEEDS AND BENEFITS:

New and revised teacher certifications exams were released to the field in May 2014.

Description of the Currently Required Certification Examinations

The edTPA, a performance examination, is a multiple-measure examination system comprised of three tasks: (i) planning instruction and examination; (ii) instructing and engaging students in learning; and (iii) assessing student learning.

The ALST measures skills and competencies in reading and writing aligned to college and career readiness standards, including (i) analyzing text structure; (ii) writing to sources; and (iii) using valid reasoning and relevant evidence to support claims.

The Educating All Students (EAS) measures skills and competencies that address: (i) diverse student populations; (ii) English language learners; (iii) students with disabilities and other special learning needs; (iv) teacher responsibilities; and (v) school-home relationships.

The CSTs measure content knowledge in a particular subject area, and are aligned with the New York State learning standards. Ongoing Review of Teacher Certification Examinations

The edTPA Task Force was reconvened by request of the members of the Board of Regents in January 2016. Beginning in May 2016, the Task Force began to review the edTPA, as well as other teacher certification exams. Conversations were led by co-chairs, Dr. David Cantaffa (Assistant Provost for Educator Preparation, SUNY) and Dr. Jimmie Danger (Vice President for Academics, UUP). This work was also informed by the gathering of information across the State of New York by the Higher Education Committee chairs, Regents Cashin and Collins. Several other members of the NYS Board of Regents and the NYS Commissioner of Education participated in public forums over the past year to discuss the teacher certification exams.

At the January 2017 Board of Regents meeting, the co-chairs of the Task Force presented the Board with their proposed recommendations. See Appendix A for the full report of the Task Force. One of the recommendations from the Task Force was to eliminate the requirement to take and pass the ALST (or use the safety net, which is in place until June 30, 2017) for teacher certification.

Proposed Rule

As a result of feedback from the public forums and the edTPA Task Force, as well as meetings with deans of many education preparation programs, and the recommendations of the edTPA Task Force, the Department recommends that candidates for teacher certification no longer be required to take and pass the Academic Literacy Skills Test (ALST) in order to obtain an initial teaching certificate. Concerns about the assessment were expressed by the Task Force and the deans included the cost, the need for the assessment in light of the other certification examinations, and the total number of exams required for teacher certification.

In lieu of this assessment, the Department will work with the testing vendor to make modifications to the EAS exam to eliminate the current short-answer constructed response items and replace them with reading and writing item(s) which will assess both students’ ability to teach a diverse population and also their literacy skills. As a result, the Department will extend the safety net for the EAS until the revised EAS becomes operational.

The Department is also proposing technical amendments to eliminate any references to the Liberal Arts and Sciences Test which is no longer administered as a teacher certification examination. The proposed amendment also makes technical amendments to eliminate regulations relating to modified licenses and certificates of qualification because these certificates and licensure titles no longer exist.

4. COSTS:

a. Costs to State government: The amendment does not impose any costs on State government, including the State Education Department.

b. Costs to local government: The amendment does not impose any costs on local government districts and BOCES.

c. Costs to private regulated parties: The amendment does not impose any costs on private regulated parties.

d. Costs to regulating agency for implementation and continued administration: See above.

5. NYS GOVERNMENT MANDATES:

The proposed amendment does not impose any additional program, service, duty or responsibility upon any local government, school districts or BOCES.

6. PAPERWORK:

The amendment does not require any additional paperwork requirements upon state or local government, the State Education Department, school districts, BOCES, or teacher certification candidates. In fact, it will reduce paperwork, as the safety net for the ALST (which is an attestation and transcript submitted by candidates) will no longer be necessary.

7. DUPLICATION:

The rule does not duplicate existing State or Federal requirements.

8. ALTERNATIVES:

The amendment was proposed in response to concerns raised in the field as well as in response to the outcome of the work of the edTPA Task Force. The amendment applies equally to all candidates pursuing teacher certification in New York State.

9. FEDERAL STANDARDS:

There are no applicable Federal standards related to the amendment.

10. COMPLIANCE SCHEDULE:

The proposed emergency amendment will be presented for emergency adoption at the March 2017 Board of Regents meeting, and will be effective as an emergency rule on March 14, 2017. It is anticipated that the proposed emergency amendment will be adopted as a permanent rule at the July 2017 Board of Regents meeting, and will become effective as a permanent rule on August 2, 2017.

Regulatory Flexibility Analysis

The purpose of the proposed emergency amendment is to address concerns raised by the field, and to implement recommendations from the edTPA Task Force, which included the elimination of the Academic Literacy Skills Test (ALST), the proposed amendment will be presented for emergency adoption at the March 2017 Board of Regents meeting, and will become effective as an emergency rule on March 14, 2017. It is anticipated that the proposed emergency amendment will be adopted as a permanent rule at the July 2017 Board of Regents meeting, and will become effective as a permanent rule on August 2, 2017.

Rural Area Flexibility Analysis

1. TYPES AND ESTIMATED NUMBER OF RURAL AREAS:

This proposed amendment applies to all teacher certification candidates, including those in the 44 rural counties with fewer than 200,000 inhabitants and the 71 towns and urban counties with a population density of 150 square miles or less.

2. REPORTING, RECORDKEEPING, AND OTHER COMPLIANCE REQUIREMENTS; AND PROFESSIONAL SERVICES:

New and revised teacher certifications exams were released to the field in May 2014.

Description of the Currently Required Certification Examinations

The edTPA, a performance examination, is a multiple-measure examination system comprised of three tasks: (i) planning instruction and examination; (ii) instructing and engaging students in learning; and (iii) assessing student learning.

Rule Making Activities

NYS Register/June 14, 2017
The ALST measures skills and competencies in reading and writing aligned to New York State learning standards, including (i) analyzing text structure; (ii) writing to sources; and (iii) using valid reasoning and relevant evidence to support claims.

The Educating All Students (EAS) measures skills and competencies that address (i) diverse student populations; (ii) English language learners; (iii) students with disabilities and other special learning needs; (iv) teacher responsibilities; and (v) school-home relationships.

The CSTs measure content knowledge in a particular subject area, and are aligned with the New York State learning standards.

Ongoing Review of Teacher Certification Examinations

The edTPA Task Force was reconvened by request of the members of the Board of Regents in January 2016. Beginning in May 2016, the Task Force met to review the edTPA, as well as other teacher certification exams. Conversations were led by co-chairs, Dr. David Cantaffa (Assistant Provost for Educator Preparation, SUNY) and Dr. Jamie Dangler (Vice President for Academics, UUP). This work was also informed by the gathering of information across the State of New York by the Higher Education Committee chairs, Regents Cashin and Collins. Several other members of the NYS Board of Regents and the NYS Commissioner of Education participated in public forums over the past year to discuss the teacher certification exams.

At the January 2017 Board of Regents meeting, the co-chairs of the Task Force presented the Board with their proposed recommendations. See Appendix A for the full report of the Task Force. One of the recommendations from the Task Force was to eliminate the requirement to take and pass the ALST (or use the safety net, which is in place until June 30, 2017) for teacher certification.

Proposed Regulation

As a result of feedback from the public forums and the edTPA Task Force, as well as meetings with deans of many education preparation programs, and the recommendations of the edTPA Task Force, the Department recommends that candidates for teacher certification no longer be required to take and pass the Academic Literacy Skills Test (ALST) in order to obtain an initial teaching certificate. Concerns about the assessment that were expressed by the Task Force and the deans included the cost, the need for the assessment in light of the other certification examinations, and the total number of exams required for teacher certification.

In lieu of this assessment, the Department will work with the testing vendor to make modifications to the EAS exam to eliminate the current constructed response items and replace them with constructed response item(s) which will assess both students’ ability to teach a diverse population and also their literacy skills. As a result, the Department will extend the safety net for the EAS until the revised EAS becomes operational.

The Department is also proposing technical amendments to eliminate any references to the Liberal Arts and Sciences Test which is no longer administered as a teacher certification examination. The proposed amendment also makes technical amendments to eliminate redundancies in the certification regulations and curricula licenses.

3. COSTS:

The proposed amendment does not impose any costs on teacher certification candidates in New York State, including those located in rural areas of the State. In fact, it will result in a cost savings to those pursuing teacher certification in New York State because candidates will no longer be required to take and pass the ALST for teacher certification, which requires candidates to pay a fee to take the exam.

4. MINIMIZING ADVERSE IMPACT:

The proposed amendment seeks to address concerns raised by the field, and to implement recommendations from the edTPA Task Force, which was reconvened at the request of the Board of Regents. This rule applies equally to all teacher certification candidates throughout the State, including those in rural areas, and removes barriers that some candidates face when pursuing certification as a teacher in this State.

5. RURAL AREA PARTICIPATION:

Copies of the rule have been provided to Rural Advisory Committee for review and comment.

Job Impact Statement

The purpose of the proposed emergency amendment is to address concerns raised by the field, and to implement recommendations from the edTPA Task Force, which included the elimination of the Academic Literacy Skills Test (ALST), the establishment of a new passing score for the edTPA, and the potential removal of the Educating All Student (“EAS”) test.

Because it is evident from the nature of the proposed rule that it will have no impact on the number of jobs or employment opportunities in New York State, and no further steps were needed to ascertain that fact and none were taken. In fact, it may help to address potential teacher shortage issues in New York State by removing barriers to certification. Consequently, a job impact statement is not required and one has not been prepared.

Assessment of Public Comment

Since publication of Emergency Adoption and Proposed Rule Making in the State Register on March 29, 2017, the State Education Department (SED) received several comments:

1. COMMENT:

One commenter supported removal of the Academic Literacy Skills Test (ALST) asserting that the exam is flawed, unreliable, invalid, and is biased against minority students. The commenter supports assessing literacy and suggested using an assessment like the SAT writing assessment.

DEPARTMENT RESPONSE:
No response necessary as the comment is supportive.

2. COMMENT:

One commenter supported removal of the ALST asserting the exam is flawed, developed without a pilot phase and without a state contract, and because the questions are vague, misleading, and irrelevant.

DEPARTMENT RESPONSE:
No response necessary as the comment is supportive.

3. COMMENT:

One commenter requested information about how removal of the ALST affects those candidates who paid for the ALST before the emergency action to remove the requirement for certification.

DEPARTMENT RESPONSE:
A satisfactory passing score on the ALST was required for teacher certification in NY until March 14, 2017 (effective date of the Regulation change). Candidates who sat for the ALST through March 13, 2017 unfortunately are not eligible for a refund. However, anyone who was registered for the exam on or after March 14, 2017 is eligible for a refund.

4. COMMENT:

One commenter supported the removal of the ALST as a requirement for teacher certification because the exam is a barrier to certification and is biased against candidates of color, and because literacy can be assessed in a less biased way.

DEPARTMENT RESPONSE:
No response necessary as the comment is supportive.

5. COMMENT:

Comments supported removal of the ALST because they believe it is a poorly constructed test.

DEPARTMENT RESPONSE:
No response necessary as the comment is supportive.

6. COMMENT:

One commenter supported removal of the ALST asserting the test is a redundant test of literacy that is already assessed in teacher preparation programs which require students to take at least two courses on the teaching of literacy; they are required to write academic and professional papers, which develops their writing skills; and they are required in every course to read, analyze, and apply what they have read.

DEPARTMENT RESPONSE:
No response necessary as the comment is supportive.

7. COMMENT:

One commenter supported removal of the ALST because while literacy is important, it is best assessed through program coursework. The ALST is not the best way to assess literacy because it is limited in scope and culturally biased. The commenter suggests using a fair assessment.

DEPARTMENT RESPONSE:
To the extent the comment is supportive, no response is necessary. The Department has proposed to revise the existing EAS exam to include a literacy portion. This revision ensures that candidates pursuing teacher certification will still be required to demonstrate satisfactory literacy skills.

8. COMMENT:

One commenter supported removal of the ALST as a requirement for certification and commended those who supported its removal.

DEPARTMENT RESPONSE:
No response necessary as the comment is supportive.

9. COMMENT:

One commenter states that removal of the ALST for certification was appropriate because the exam is similar to the EAS. The commenter further stated that the Content Specialty Tests required for certification are costly and lengthy, that the edTPA is costly and should be simplified, and that the exams required for teacher certification cost students hundreds and sometimes thousands of dollars and must be addressed.

DEPARTMENT RESPONSE:
To the extent the comment is supportive, no response is necessary. The Department also believes the cost of exams required for one to become a teacher must be addressed. In fact, the cost of the teacher certification examinations was one of the factors that the edTPA task force considered in proposing removal of the ALST for teacher certification.

10. COMMENT:

One commenter offered his personal experience with the ALST. He explained that the content on the ALST is irrelevant to becoming a teacher, does not assess the competence of a future teacher, and that is only as-
sessed whether or not the candidate is a “good test taker.” The commenter believes that the only purpose of the exam was to raise money. The commenter suggests that the Board of Regents ensure that the exams needed to become a teacher assess the competence of future teachers.

DEPARTMENT RESPONSE:
No response is necessary as the comment is generally supportive. The Department also believes that the remaining examinations sufficiently assess the minimum knowledge, skills and abilities needed for a teacher to enter the classroom.

11. COMMENT:
One commenter supports removal of the ALST for teacher certification and believes that this will address teacher shortages and get more candidates into and through teacher preparation programs. The commenter believes that the recommendations from the edTPA task force were well thought out.

DEPARTMENT RESPONSE:
No response is necessary as the comment is supportive.

12. COMMENT:
One commenter expressed concern that the removal of the ALST for teacher certification and revising the EAS exam lowers the standard for teachers. The commenter discussed the lowering of standards for education in general, including the Regents exams and New York State ELA and Math tests, as well as lower graduation rates. The commenter believes that continuing to lower the standards for teacher certification is related to the lowering of standards and declining standards for K-12 students.

DEPARTMENT RESPONSE:
The Department does not believe, nor was it intended, that the proposed amendment lowers the standards for teacher certification in New York. The removal of the ALST was proposed after extensive consideration by the edTPA Task Force over several months. To the extent that the commenter is concerned about revisions to the EAS, these revisions have been proposed to assess the literacy skills previously included as part of the ALST. The EAS will be revised to add a component that assesses candidates reading and writing skills, and the revised assessment will go through the entire test development process to ensure validity before it is implemented in the field.

13. COMMENT:
One commenter expressed concern with eliminating the ALST for teacher certification because it is a basic reading and writing test. The commenter believes teachers need more rigorous standards, not lower standards. They are concerned that an education major in college is not as thought out. The commenter believes that the recommendations from the edTPA task force were well considered by the edTPA Task Force over several months. To the extent that the commenter is concerned about revisions to the EAS, these revisions have been proposed to assess the literacy skills previously included as part of the ALST. The EAS will be revised to add a component that assesses candidates reading and writing skills, and the revised assessment will go through the entire test development process to ensure validity before it is implemented in the field.

Text of proposed rule and any required statements and analyses may be obtained from:
Robert Messenger, ENV DEC, 625 Broadway, Albany, NY 12233, (518) 402-9428, email: robert.messenger@dec.ny.gov

Data, views or arguments may be submitted to:
Same as above.

Public comment will be received until: 45 days after publication of this notice.

Additional matter required by statute: A Negative Declaration has been prepared in compliance with Article 8 of the Environmental Conservation Law.

Regulatory Impact Statement

Statutory authority
The Department of Environmental Conservation (DEC) is acquiring 2,800 acres of land in Oswego County in a divestiture from National Grid that will be known as the Lower Salmon River State Forest.

Proposed Action: Addition of section 190.37 to Title 6 NYCRR.

Description: For the purposes of this section, Lower Salmon River State Forest refers to all those State lands under the jurisdiction of the Department of Environmental Conservation in Constables Purchase Townships 10 and 11 and Scriba’s Patent Townships 21 and 22 located along and in the vicinity of the Salmon River from Interstate 81 upstream to the Salmon River Bridges on Oswego County Route 22, excluding those lands designated as the Salmon River Fish Hatchery, the New York State Department of Environmental Conservation Training Academy, Altmar State Forest and fisherman’s parking areas. The lands referred to are a long, irregularly shaped corridor running along the Salmon River for a distance of about 10 miles starting at the Village of Pulaski and extending east to the Lower Salmon River Reservoir. The Lower Salmon State Forest is located in the Towns of Albion, Oswego, and Richland and the Villages of Altmar and Pulaski in Oswego County, being the same lands as more particularly described in deeds conveying such lands to the People of the State of New York, on file in the Department of Environmental Conservation, Albany, New York, and duly recorded in the office of the county clerk of Oswego County.

Camping, including camping in vehicles, is prohibited. No camp, tent, trailer, lean-to or structure of any kind shall be erected or maintained within the area.

No person shall discharge a rifle, shotgun, handgun or muzzle loader, except while lawfully hunting or trapping.

Target shooting is prohibited.

In addition to the provisions set forth in section 190.1, the use of fire is prohibited, except for charcoaling or gas grills, from May 1st through October 31st. The general fire regulations found in section 190.1 shall apply from November 1st through April 30th.

The use of snowmobiles is prohibited except on designated snowmobile trails.

The use of snowmobiles is prohibited except on designated snowmobile trails.

Regulatory Impact Statement

Statutory authority
The Department of Environmental Conservation is acquiring 2,800 acres of land in Oswego County in a divestiture from National Grid that will be known as the Lower Salmon River State Forest.

Proposed Action: Addition of section 190.37 to Title 6 NYCRR.

Proposed Amendment

Several regulations apply to Lower Salmon River State Forest. These regulations are intended to protect the natural resources and ecosystem of the forest. The proposed amendment lowers the standards for teacher certification in New York.

The Department has, as one of its core missions, the acquisition of environmentally important forests and lands, funding for which has been provided by various acts of the State Legislature. In adopting various articles of the ECL, the Legislature has established forest, fish, and wildlife conservation to be policies of the State and has empowered the Department to exercise “care, custody, and control” over certain State lands and other real property. Consistent with these statutory interests, the proposed regulations will protect natural resources and the safety and welfare of those who engage in recreational activities on Department managed lands.

Lower Salmon River State Forest

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act. NOTICE is hereby given of the following proposed rule:

Proposed Action: Addition of section 190.37 to Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 1-0101(3)(b), 3-0301(1), 3-0301(2)(m), (v), 9-0105(1) and (3)

Subject: Lower Salmon River State Forest.

Purpose: To protect public safety and natural resources on the Lower Salmon River State Forest.

Text of proposed rule: A new section 190.37 is added to read as follows:

Section 190.37 Lower Salmon River State Forest.

In addition to other applicable general provisions of this Part, the following requirements apply to Lower Salmon River State Forest. In the event of a conflict, these specific provisions will control.
Because anglers continue to use the property through the winter months, portable charcoal or gas grills and stoves for cooking and warmth. Seasonal restrictions on the use of fire are necessary to address warm season party activities. Visitors to the property will still be allowed to use firewood gathering for campfires. Frequent inquiries from visitors to the area as to whether camping is allowed on these lands demonstrate the likelihood that camping would become widespread without these regulations. Since camping was not allowed on this property prior to acquisition by the state, this prohibition does not present a new restriction on use. Local lodging and private campground businesses will likely benefit from visitors who wish to spend multiple consecutive fishing days in the area.

Prohibiting target shooting will avoid potential conflicts with fishermen and will protect public safety. The relatively long and narrow shape of the river makes it difficult to find locations where target shooting could become widespread, providing an annual $18.8 million economic benefit to local communities based on estimated on-site expenditures from the Department’s Statewide Angler Survey. Peak use of the area occurs in the fall, but there is also very significant fishing activity on the river throughout the winter and into the spring. Other ecologically significant uses of the area include general tourism and recreation, particularly winter recreation, since the area receives approximately 300 inches of snow annually.

The proposed regulations will protect the Lower Salmon River State Forest from overuse by prohibiting camping, including camping in vehicles, and protecting natural resources in the area by restricting the use of fire and snowmobiles. Prohibiting target practice will protect public safety.

The large numbers of people that use these lands could cause density related problems such as littering and trampling of vegetation. Estimates of current use indicate that 150,000 to 200,000 people visit the Salmon River annually. Current impacts from these users are relatively low, because visitors arrive, walk to their destination and spend most of their time in the river fishing. When they are done fishing, they leave the property. If camping were allowed, it is likely that unsanctioned campsites would be created along the river corridor. Litter and vegetation trampling would significantly increase, as would the impacts from the disposal of human waste and from firewood gathering for campfires. Frequent inquiries from visitors to the area as to whether camping is allowed on these lands demonstrate the likelihood that camping would become widespread without these regulations. Since camping was not allowed on this property prior to acquisition by the state, this prohibition does not present a new restriction on use. Local lodging and private campground businesses will likely benefit from visitors who wish to spend multiple consecutive fishing days in the area.

Prohibiting target shooting will avoid potential conflicts with fishermen and will protect public safety. A Unit Management Plan for the entire property will be completed, which will include a public comment period. The proposed regulations may be revised, as necessary, to be consistent with the Unit Management Plan. The regulations will become effective on the date that a Notice of Adoption is published in the New York State Register. The Department will educate the public about the regulations through information posted on the Department’s web site.

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis for Small Businesses and Local Governments is not required for these regulations because the proposal will not impose any reporting, record-keeping or other compliance requirements on small businesses or local governments. The proposed regulations relate solely to protecting natural resources and public safety on the Lower Salmon River State Forest. There are no identified cost impacts because the proposed regulations have no direct application to small businesses and local governments. The proposed regulations should enhance the public’s enjoyment of these lands, and local businesses may benefit from the attraction of potential customers to the area.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis is not submitted with this proposal because the proposal will not impose any reporting, record-keeping or other compliance requirements on rural areas. The proposed regulations relate solely to protecting natural resources and public safety on the Lower Salmon River State Forest.

Job Impact Statement

A Job Impact Statement is not submitted with this proposal because the proposal will have no substantial adverse impacts on existing or future jobs and employment opportunities. The proposed regulations relate solely to protecting natural resources and public safety on the Lower Salmon River State Forest. The proposed regulations should enhance the public’s enjoyment of these lands, and local businesses may benefit from the attraction of potential customers to the area.

Department of Health

NOTICE OF ADOPTION

Adult Day Health Care Services for Registrants with AIDS

L.D. No. HLT-07-17-00008-A

Filing No. 374

Filing Date: 2017-05-24

Effective Date: 2017-06-14

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Parts 86, 425 and 759 of Title 10 NYCRR.

Statutory authority: Public Health Law, sections 201(1)(v) and 2803(2)

11
Subject: Adult Day Health Care Services for Registrants with AIDS.

Purpose: To provide programs with the ability to register and service other high-need populations.

Substance of final rule: These proposed amendments concern those sections of Title 10 that apply to adult day health care services for registrants with acquired immune deficiency syndrome. First, the amendments are intended to expand the population that may be served by adult day health care programs that are approved as providers of specialized services for registrants with AIDS (“AIDS ADHCPS”). Second, the amendments would conform the standards applicable to AIDS ADHCPS operated by residential health care facilities with those operated by diagnostic and treatment centers. Lastly, the amendments would conform the regulations governing AIDS ADHCPS to the regulations governing non-specialized adult day health care programs, thereby similarly allowing for AIDS ADHCPS to more effectively contract with managed care plans.

Final rule as compared with last published rule: Nonsubstantive changes were made in section 759.8(d)(2).

Text of rule and any required statements and analyses may be obtained from: Katherine Ceroalo, DOH, Bureau of House Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.ny.gov

Revised Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis, Job Impact Statement.

Changes made to the last published rule do not necessitate revision to the previously published Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement.

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2022, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

The New York State Department of Health (the Department) received four sets comments regarding the proposed amendments to Parts 86, 425, and 759 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

Three sets of comments were received from AIDS adult day health care programs and one from the AIDS Day Services Association, the only program sponsors of AIDS adult day health care programs. The comments received from each were similar in content. They expressed support for the proposed regulations and thanked the Department for supporting their efforts to redesign these programs and fill the gap in services for HIV-negative, high-need populations.

Comment: The commenters proposed that the description of the “high-need” population should be linked to the population served by the Medicaid health home program.

Response: Rather than revise the description of the high-need population, the Department will work with the AIDS adult day health care programs to clarify the description of the expanded population and will make any appropriate revisions to Department guidelines.

Comment: Commenters supported the amendment to proposed section 759.5(a)(1) that eliminates the requirement that a program registrant attend the program for a minimum of three hours on each day of attendance.

Response: No changes have been made to the regulations in response to these comments. The program model is designed to serve high-need, high-risk populations, and admitting or retaining registrants in the program who do not have intensive service needs is not the intent of the model. Further, clients do not need to actually participate in the program at least once per week. Clients must, however, have service needs that warrant at least one visit per week to be admitted and retained in the program.

Comment: The commenters proposed removing all references and requirements related to registrant capacity (i.e., the maximum number of registrants that can be served in a day).

Response: No changes have been made to the regulations in response to these comments. Program or registrant capacity requirements are determined as part of the certificate of need (CON) process, which includes an assessment of space requirements. This assessment considers specific aspects of the program model, which emphasizes a therapeutic group milieu and congregate dining. In addition, the regulations permit programs to request Department approval to increase the number of sessions conducted during a day of operation, which can provide programs the ability to increase the number of individuals served.

Comment: Commenters stated that the proposed definition of “practitioner” in section 759.1(j) is too narrow and proposed including registered nurses and licensed mental health practitioners among the clinicians included in the definition.

Response: The Department did not revise the definition of “practitioner” in section 759.1(j) as it is consistent with the definition in section 425.1(b). More importantly, the primary role of the “practitioner” is to provide day-to-day direction, management, and administration of the program. As such, the definition as proposed is appropriate.

Comment: Commenters noted that the proposed section 759.8(d) requires programs to employ licensed social workers to provide social services. Commenters proposed replacing these staffing requirements with “licensed mental health providers” in order to include Education Law Article 163 mental health practitioners, in addition to social workers.

Response: The Department recognizes the need for flexibility in the type of staff who provide social services and has revised the proposed regulations. The final regulations permit additional types of mental health professionals to provide such services. However, the Department retained in the regulation the requirement that a licensed clinical social worker supervise the staff who provide social services. The Department also retained the requirement in section 759.12(b)(2) that a licensed master social worker be a member of the program’s quality assessment and assurance committee.

Comment: Commenters requested that proposed regulation section 759.4(a)(2) be revised to clarify whether staff members must be experienced in the care and management of persons with HIV or AIDS if they only provide services to high-need HIV-negative persons.

Response: The Department believes the proposed language appropriately expresses the intent that staff must be experienced in the care and management of the population of clients to whom they are providing services. Any further clarification will be addressed administratively though revising, if necessary, the Department guidelines for these programs.
immediately in order for HESC to process scholarship applications in a timely manner. To accomplish this mandate and further provide for HESC to promulgate emergency regulations to implement the Program. For these reasons, compliance with section 202(1) of the State Administrative Procedure Act would be contrary to the public interest.

Subject: Excelsior Scholarship

Purpose: To implement the Excelsior Scholarship Program.

Text of emergency rule: New section 2201.18 is added to Title 8 of the New York Code, Rules and Regulations to read as follows:

New section 2201.18 Excelsior Scholarship Program.

(a) Definitions. For purposes of this section and Education Law, section 669-h, the following definitions shall apply:

(1) Award shall mean an Excelsior Scholarship award pursuant to Education Law, section 669-h.

(2) Full-time attendance or full-time study, for purposes of Education Law, section 669-h(1)(c), shall mean enrollment in at least 12 credits per semester and completion of at least 30 combined credits per year following the student’s start date, or its equivalent, applicable to his or her program of study, excluding any allowable interruption of study as determined by the corporation, and except as provided in subdivision (b) of this section and Education Law, section 669-h(1)(c). Noncredit courses shall not be considered as contributing toward full-time attendance.

(3) Half-time shall mean enrollment in at least six but less than 12 credits, or the equivalent, per semester.

(4) Intercession in undergraduate study shall mean a temporary period of delay for a definite length of time due to circumstances as determined by the corporation, including, but not limited to, death of a family member, medical leave, military service, service in the Peace Corps or other National Service program.

(5) Program shall mean the Excelsior Scholarship codified in Education Law, section 669-h.

(6) Public institution of higher education shall mean the State University of New York, as defined in Education Law, section 352(3), a community college as defined in Education Law, section 6301(2), or the City University of New York as defined in Education Law, section 6202(2).

(b) Eligibility. In addition to the requirements of Education Law, section 669-h, an applicant must also satisfy the general eligibility requirements.

(1) College credit earned toward a recipient’s program(s) of study while a high school student or other non-matriculated status shall be considered as contributing toward full-time attendance. For a recipient who earned college credit toward his or her program(s) of study prior to enrolling in college as a matriculated student and who is making satisfactory progress toward timely completion of his or her program(s) of study, and is enrolled in coursework not applicable toward his or her program(s) of study, such coursework outside of his or her program(s) of study shall be considered as contributing toward full-time attendance.

(2) A recipient must be in full-time attendance as defined in this section.

(3) For purposes of Education Law, section 669-h(1)(b), an applicant must have completed at least 30 combined credits in each consecutive year following his or her start date applicable to his or her program(s) of study which were accepted by his or her current institution at the time of application for this award, except for any permissible interruption of study as determined by the corporation. Notwithstanding, an applicant who enrolled in a program(s) of study leading to an undergraduate degree and enrolled as a first-time college student: (i) in the 2015-16 academic year who earned at least 34 combined credits applicable to his or her program(s) of study by the end of the 2016-17 academic year, shall become eligible to receive an award in the 2018-19 academic year and thereafter if such student completes at least 90 combined credits applicable to his or her program(s) of study by the end of the 2017-18 academic year; or (ii) in the 2016-17 academic year who earned at least 24 combined credits applicable to his or her program(s) of study by the end of the 2016-17 academic year, shall become eligible to receive an award in the 2018-19 academic year and thereafter if such student completes at least 60 combined credits applicable to his or her program(s) of study by the end of the 2017-18 academic year.

(4) For students who are disabled as defined by the Americans with Disabilities Act of 1990, 42 USC 12101, the full-time attendance requirement is eliminated, subject to the parameters of paragraph 4 of subdivision d of this section.

(c) Administration. In addition to the requirements contained in Education Law, section 669-h, the following requirements shall also apply.

(i) Applicants and recipients shall:

(ii) Apply for program eligibility on forms and in a manner prescribed by the corporation. The corporation may require applicants to provide additional documentation evidencing eligibility; and

(iii) Electronically transmit applications for program eligibility to the corporation on or before the date prescribed by the corporation for the applicable academic year.

(2) Recipients of an award shall:

(a) Execute a contract with the corporation agreeing to reside in New York State for a continuous number of years equal to the duration of the award received and, if employed during such time, to be employed in New York State;

(b) Apply for payment annually on forms specified by the corporation; and

(c) Receive such awards for not more than two academic years of full-time undergraduate study if enrolled in an eligible two year program of study or four academic years of full-time undergraduate study or five academic years if the program of study normally requires five years, as defined by the commissioner pursuant to article thirteen of the education law, excluding any allowable interruption of study as defined in this section.

(d) The amount of the award shall be determined in accordance with Education Law, section 669-h.

(e) Disbursements shall be made each term to institutions, on behalf of recipients, within a reasonable time subject to the verification and certification by the institution of the recipient’s full-time status and other eligibility and certification requirements.

(f) Awards shall be reduced by the value of other educational grants and scholarships that cover the cost of attendance unless the award is exclusively for non-tuition expenses as authorized by Education Law, section 669-h.

(g) For students who are disabled as defined by the Americans with Disabilities Act of 1990, 42 USC 12101, upon each certification by the corporation the tuition rate charged by the institution, eligibility to receive the award, the number of credits completed each academic term, the cumulative credits at the end of each academic term, the type and amount of each student financial aid award received, excluding loans and work study, and any other information requested by the corporation.

(h) Contractual obligation.

(i) For the purpose of complying with Education Law, section 669-h(4)(e), military personnel, including those in the Military Reserves and ROTC or CSPI, for whom New York is his or her legal state of residence shall be deemed to reside and be employed in New York State regardless of where the individual is stationed or deployed.

(j) For the purpose of complying with Education Law, section 669-h(4)(e), for a recipient who is no longer eligible to receive award payments, the duration he or she resides in New York State while completing undergraduate or graduate study, including medical residency, shall be credited toward the time necessary to satisfy the recipient’s residency and employment requirement.

(k) Where a recipient, within six months of receipt of his or her final award payment, fails to maintain permanent domicile in New York State for a continuous number of years equal to the duration of the award received or, during such time, is employed in any other state, the corporation shall convert all award monies received to a 10-year student loan, without interest. However, the requirement to maintain permanent domicile, and only be employed, in New York State, may be deferred to complete undergraduate study or attend graduate school, including medical residency, on at least a half-time basis.

(l) Where a recipient has demonstrated extreme hardship as a result of a disability, labor market conditions, or other such circumstances, the corporation may, in its discretion, postpone converting the awarded to a student loan, temporarily suspend repayment of the amount owed, discharge the amount owed, or take such other appropriate action. Notwithstanding...
standing, the corporation shall prorate the amount owed commensurate with the length of time the recipient complied with the residency and employment requirements.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the State Register at some future date. The emergency rule will expire August 23, 2017.

Text of rule and any required statements and analyses may be obtained from: Cheryl B. Fisher, NYS Higher Education Services Corporation, 99 Washington Avenue, Room 1325, Albany, New York 12255, (518) 474-5592, email: regcomments@hesc.ny.gov

Regulatory Impact Statement

Statutory authority:
The New York State Higher Education Services Corporation’s (HESC) statutory authority to promulgate regulations and administer the Excelsior Scholarship (Program) is codified within Article 14 of the Education Law. In particular, Part HHH of Chapter 59 of the Laws of 2017 created the Program by adding a new section 669-h to the Education Law. Subdivision 6 of section 669-h of the Education Law authorizes HESC to promulgate emergency regulations for the purpose of administering this Program.

Pursuant to Education Law § 652(2), HESC was established for the purpose of improving the post-secondary educational opportunities of eligible students through the centralization of New York State’s current financial aid programs and coordinating the State’s administrative effort in student financial aid programs with those of other levels of government.

In addition, Education Law § 653(9) empowers HESC’s Board of Trustees to perform such other acts as may be necessary or appropriate to carry out the objects and purposes of the corporation including the promulgation of rules and regulations.

HESC’s President is authorized, under Education Law § 655(4), to propose rules and regulations, subject to approval by the Board of Trustees, governing, among other things, the application for and the granting and administration of student aid and loan programs, the repayment of loans or the guarantee of loans made by HESC; and administrative functions in support of state student aid programs. Also, consistent with Education Law § 655(9), HESC’s President is authorized to receive assistance from and to act as the representative or agent of the State in order to properly carry out his or her powers, duties and functions. Finally, Education Law § 655(12) provides HESC’s President with the authority to perform such other acts as may be necessary or appropriate to carry out effectively the general objects and purposes of HESC.

Legislative objectives:
The Education Law was amended to add a new section 669-h to create the Excelsior Scholarship (Program). This Program makes college tuition-free for New York’s middle class families at all State University of New York (SUNY) and City University of New York (CUNY) two-year and four-year colleges.

Needs and benefits:
Many studies have underscored the importance of a college degree in today’s global economy. According to a report by the Center on Education and the Workforce (CEW) at Georgetown University, by 2020, 65 percent of all jobs will require some form of postsecondary education or training, compared to 59 percent of jobs in 2010. The CEW report finds that having a skilled workforce is critical if the United States is to “remain competitive, attract the right type of industry, and engage the right type of talent in a knowledge-based and innovative economy.” At the current pace, the United States will fall short of its skilled workforce needs by 5 million workers. The disparity in earning potential between high school graduates and college graduates has never been greater, nor has the student loan debt – which stands at $1.3 trillion – being carried by those who have pursued a postsecondary education. Recognizing the growing need for workers with postsecondary education and training, the wage earnings benefits for those with training beyond high school, the rapidly rising college costs and mounting student loan debt, this Program makes college tuition-free for New York’s students attending a State University of New York (SUNY) or City University of New York (CUNY) two-year or four-year college.

The Program provides for annual tuition awards up to $5,500 for resident, undergraduate students from households with incomes of up to $125,000, when fully phased in. Students must be on track to complete an associate’s degree in two years or a bachelor’s degree in four years by taking at least 30 credits each year. Awards are reduced by other financial aid received by the student, such as a Tuition Assistance Program (TAP) award. Any remaining tuition expense will be covered through a college credit. Payments will be made directly to the public college or university on behalf of the student upon certification of his or her successful completion of the academic term.

Students receiving an Excelsior Scholarship award must sign a contract agreeing to live in New York State for a number of years equal to the duration of the award received and, if employed, work within the State during this time. Recipients who do not satisfy this obligation will have the value of their awards converted to an interest-free student loan.

Costs:
a. It is anticipated that there will be no costs to the agency for the implementation of, or continuing compliance with this rule.
b. The maximum cost to the State is $87 million in the first year based upon budget estimates.
c. It is anticipated that there will be no costs to Local Governments for the implementation of, or continuing compliance with, this rule.

d. The source of the cost data in (b) above is derived from the New York State Division of the Budget.

Local government mandates:
No program, service, duty or responsibility will be imposed by this rule upon any county, city, town, village, school district, fire district or other special district.

Paperwork:
This proposal will require applicants to file an electronic application for each year they wish to receive an award up to and including five years of eligibility. Recipients are required to sign a contract agreeing to live in New York State, and not be employed outside the State, in exchange for an award. Recipients must submit annual status reports until a final disposition is reached in accordance with the written contract.

Duplication:
No relevant rules or other relevant requirements duplicating, overlapping, or conflicting with this rule were identified.

Alternatives:
The proposed regulation is the result of HESC’s outreach efforts to financial aid professionals with regard to this Program. Several alternatives were considered in the drafting of this regulation, such as the application of the credit requirement. Given the statutory language as set forth in section 669-h of the Education Law, a “no action” alternative was not an option.

Federal standards:
This proposal does not exceed any minimum standards of the Federal Government.

Compliance schedule:
The agency will be able to comply with the regulation immediately upon its adoption.

Regulatory Flexibility Analysis

This statement is being submitted pursuant to subdivision (3) of section 202-b of the State Administrative Procedure Act and in support of the New York State Higher Education Services Corporation’s (HESC) Emergency Rule Making, seeking to add a new section 2201.18 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

It is apparent from the nature and purpose of this rule that it will not impose an adverse economic impact on small businesses or local governments. HESC finds that this rule will not impose any compliance requirement or adverse economic impact on small businesses or local governments. Rather, it has potential positive impacts inasmuch as it implements a statutory student financial aid program that provides full tuition benefits to college students who pursue their undergraduate studies at a New York State public institution of higher education. Students will be rewarded for remaining and working in New York, which will provide an economic benefit to the State’s small businesses and local governments as well.

Rural Area Flexibility Analysis

This statement is being submitted pursuant to subdivision (4) of section 202-bb of the State Administrative Procedure Act and in support of the New York State Higher Education Services Corporation’s Emergency Rule Making, seeking to add a new section 2201.18 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

It is apparent from the nature and purpose of this rule that it will not impose an adverse impact on rural areas. Rather, it has potential positive impacts inasmuch as it implements a statutory student financial aid program that provides full tuition benefits to college students who pursue their undergraduate studies at a New York State public institution of higher education. Students will be rewarded for remaining and working in New York, which will benefit rural areas around the State as well.

This agency finds that this rule will not impose any reporting, record keeping or other compliance requirements on public or private entities in rural areas.

Job Impact Statement

This statement is being submitted pursuant to subdivision (2) of section 201-a of the State Administrative Procedure Act and in support of the New York State Higher Education Services Corporation’s Emergency Rule Making seeking to add a new section 2201.18 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.
It is apparent from the nature and purpose of this rule that it will not have any negative impact on jobs or employment opportunities. Rather, it has potential positive impacts inasmuch as it implements a statutory student financial aid program that provides full tuition benefits to college students who pursue their undergraduate studies at a New York State public institution of higher education. Students will be rewarded for remaining and working in New York, which will benefit the State as well.

EMERGENCY RULE MAKING

Enhanced Tuition Awards Program

I.D. No. ESC-24-17-00004-E

Filing No. 378

Filing Date: 2017-05-26

Effective Date: 2017-05-26

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Addition of section 2201.19 to Title 8 NYCRR.

Statutory authority: Education Law, sections 653, 655 and 667-d

Finding of necessity for emergency rule: Preservation of general welfare. Specific reasons underlying the finding of necessity: This statement is being submitted pursuant to subdivision (6) of section 202 of the State Administrative Procedure Act and in support of the New York State Higher Education Services Corporation’s (HESC) Emergency Rule Making seeking to add a new section 2201.19 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

This regulation implements a statutory student financial aid program providing for awards to be made to students beginning with the fall 2017 term, which generally starts in August. Emergency adoption is necessary to avoid an adverse impact on the processing of awards to eligible scholarship applicants. The statute provides for tuition benefits to college-going students pursuing their undergraduate studies at a New York State private institution of higher education. Decisions on applications for this Program are made prior to the beginning of the term. Therefore, it is critical that the terms of the Program as provided in the regulation be effective immediately in order for HESC to process scholarship applications in a timely manner. To accomplish this mandate, the statute further provides for HESC to promulgate emergency regulations to implement the Program. For these reasons, compliance with section 202(1) of the State Administrative Procedure Act would be contrary to the public interest.

Subject: Enhanced Tuition Awards program.

Purpose: To implement the Enhanced Tuition Awards program.

Text of emergency rule: New section 2201.19 is added to Title 8 of the New York Code, Rules and Regulations to read as follows:

Section 2201.19 Enhanced Tuition Awards.

(a) Definitions. For purposes of this section and Education Law, section 667-d, the following definitions shall apply:

(1) Award shall mean an Enhanced Tuition Award pursuant to Education Law, section 667-d.

(2) Full-time attendance or full-time study, for purposes of Education Law, section 667-d(1)(d)(i), shall mean enrollment in at least 12 credits per semester and completion of at least 30 combined credits per year following the student’s start date, or its equivalent, applicable to his or her program of study, excluding any permissible interruption of study as determined by the corporation, and except as provided in subdivision (b) of this section and Education Law, section 667-d(1)(d)(ii). Noncredit courses shall not be considered as contributing toward full-time attendance.

(3) Half-time shall mean enrollment in at least six but less than 12 credits, or the equivalent, per semester.

(4) Interruption in undergraduate study shall mean a temporary period of leave for a definite length of time due to circumstances as determined by the corporation, including, but not limited to, death of a family member, medical leave, military service, service in the Peace Corps or parental leave.

(5) Program shall mean the Enhanced Tuition Awards codified in Education Law, section 667-d.

(6) Satisfactory progress shall have the same meaning as successful completion.

(7) Student’s start date (i) for purposes of Education Law, section 667-d(1)(d)(i), shall mean the date the student began attendance as a first-time college student; and (ii) for purposes of Education Law, section 667-d(1)(d)(ii), shall mean the date the college determines such recipient was in first attendance at that institution.

(8) Successful completion shall mean a student has earned at least 30 combined credits in each consecutive year following the student’s start date, or its equivalent, applicable to his or her program or programs of study except as provided in subdivision (b) of this section and Education Law, section 667-d(1)(d)(ii).

(b) Eligibility. In addition to the requirements of Education Law, section 667-d, an applicant must also satisfy the general eligibility requirements provided in Education Law, section 661. As authorized by Education Law, section 667-d, the following exceptions and modifications to the eligibility requirements shall apply:

(1) College credit earned toward a recipient’s program(s) of study while a high school student or other non-matriculated status shall be considered as contributing toward full-time attendance. For a recipient who earned college credit toward his or her program(s) of study prior to enrolling as a college student, all credits earned toward a recipient’s program(s) of study will be considered toward full-time attendance.

(2) A recipient must be in full-time attendance as defined in this section.

(3) For purposes of Education Law, section 667-d(1)(d)(i), an applicant must have completed at least 30 combined credits in each consecutive year following his or her start date applicable to his or her program(s) of study. Those credits must be accepted by his or her college or university at the time of application for this award, except for any permissible interruption of study as determined by the corporation. Notwithstanding, an applicant who enrolled in a program(s) of study leading to an undergraduate degree and enrolled as a first-time college student: (i) in the 2015-16 academic year who completed at least 34 combined credits applicable to his or her program(s) of study by the end of the 2016-17 academic year, shall become eligible to receive an award in the 2018-19 academic year and thereafter if such student completes at least 90 combined credits applicable to his or her program(s) of study by the end of the 2017-18 academic year; or (ii) in the 2015-16 academic year with at least 24 combined credits applicable to his or her program(s) of study by the end of the 2016-17 academic year, shall become eligible to receive an award in the 2018-19 academic year and thereafter if such student completes at least 60 combined credits applicable to his or her program(s) of study by the end of the 2017-18 academic year.

(4) For students who are disabled as defined by the Americans with Disabilities Act of 1990, 42 USC 12101, the full-time attendance requirement is eliminated, subject to the parameters of paragraph 3 of subdivision e of this section.

(5) Recipient selection. If there are more applicants than available funds, the following provisions shall apply:

(i) In the program’s first year:

(a) First priority shall be given to eligible applicants who are currently in attendance at an institution of higher education. If there are more applicants than available funds, recipients shall be chosen by lottery.

(b) Second priority shall be given to eligible applicants who are matriculated in an approved program leading to an undergraduate degree at a private not-for-profit degree granting institution of higher education located in New York State, except those institutions set forth in Education Law, section 661(4)(b), for the first time. If there are more applicants than available funds, recipients shall be chosen by lottery.

(ii) After the program’s first year:

(a) First priority shall be given to eligible applicants who have received payment of an award pursuant to this section in a prior year and are currently in attendance at a private not-for-profit degree granting institution of higher education located in New York State, except those institutions set forth in Education Law, section 661(4)(b), for the first time. If there are more applicants than available funds, recipients shall be chosen by lottery.

(b) Second priority shall be given to eligible applicants who have not received payment of an award in a prior year and are currently in attendance at an institution of higher education. If there are more applicants than available funds, recipients shall be chosen by lottery.

(c) Third priority shall be given to eligible applicants who are matriculated in an approved program leading to an undergraduate degree at a private not-for-profit degree granting institution of higher education located within New York State, except those institutions set forth in Education Law, section 661(4)(b), for the first time. If there are more applicants than available funds, recipients shall be chosen by lottery.

(d) Administration. In addition to the requirements contained in Education Law, section 667-d, the following requirements shall also apply:

(i) Applicants for an award shall:

(a) apply for program eligibility on forms and in a manner prescribed by the corporation. The corporation may require applicants to provide additional documentation evidencing eligibility; and

(ii) electronically transmit applications for program eligibility to
Recipients of an award shall:
(i) execute a contract with the corporation agreeing to reside in New York State for a continuous number of years equal to the duration of the award received and, if employed during such time, to be employed in New York State;
(ii) apply for payment annually on forms specified by the corporation; and
(iii) receive such awards for not more than two academic years of full-time undergraduate study if enrolled in an eligible two year program of study or four academic years of full-time undergraduate study or five academic years if the program of study normally requires five years, as defined by the corporation, for a recipient pursuing the program's curriculum as required by law, excluding any allowable interruption of study as defined in this section. For purposes of this subparagraph, a recipient's academic year shall begin with the term he or she was first in attendance at the institution in which he or she is currently enrolled.

Institutions.
(i) Certification. For each recipient, institutions shall certify on forms and in the manner prescribed by the corporation the tuition rate charged by the institution, the amount of the institution's matching award, eligibility to receive the award, the number of credits completed each academic term, the cumulative credits at the end of each academic term, and any other information requested by the corporation.
(ii) College Option. (A) An institution may annually choose to participate in the Program or to opt out of the Program in the manner prescribed by the corporation; (B) Institutional participation shall be for an entire academic year; (C) An institution may establish a cap on its participation based on a dollar threshold or a maximum number of students; (D) An institution that opts out of the Program shall continue to provide the institutional matching award and applicable tuition rate to all award recipients until such recipients have exhausted eligibility or are no longer eligible for award payments.

Amounts.
(1) The amount of the award shall be determined in accordance with Education Law, section 667-d.
(2) Disbursements shall be made each term to institutions, on behalf of recipients, within a reasonable time subject to the verification and certification by the institution of the recipient's full-time status and other eligibility requirements.
(3) For students who are disabled as defined by the Americans with Disabilities Act of 1990, 42 USC 12101, upon each certification by the college or university, payment eligibility shall be determined and measured proportionally in equivalence with full-time study.
(f) Contractual obligation.
(1) For the purpose of complying with Education Law, section 667-d(1)(f), military personnel, including those in the Military Reserves and ROTC or CSPI, for whom New York is his or her legal state of residence, shall be deemed to reside and be employed in New York State regardless of where the individual is stationed or deployed.
(2) For the purpose of complying with Education Law, section 667-d(1)(f), for a recipient who is no longer eligible to receive award payments, the institution who resides in New York State while completing undergraduate or graduate study, including medical residency, shall be credited toward the time necessary to satisfy the recipient's residency and employment requirement.
(3) Where a recipient, within six months of receipt of his or her final award payment, fails to maintain permanent domicile in New York State for a continuous number of years equal to the duration of the award received or, during such time, is employed in any other state, the corporation shall convert all award monies received to a 10-year student loan, without interest. However, the requirement to maintain permanent domicile, and, only when employed in New York State, may be deferred to complete undergraduate study or attend graduate school, including medical residency, on at least a half-time basis.
(4) Where a recipient has demonstrated extreme hardship as a result of a disability, labor market conditions, or other such circumstances, the corporation may, in its discretion, postpone converting the award to a student loan, temporarily suspend repayment of the amount owed, discharge the amount owed, or take such other appropriate action. Notwithstanding, the corporation shall prorate the amount owed commensurate with the length of time the recipient complied with the residency and employment requirements.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the State Register at some future date. The emergency rule will expire August 23, 2017.

Text of rule and any required statements and analyses may be obtained from: Cheryl B. Fisher, NYS Higher Education Services Corporation, 99 Washington Avenue, Room 1325, Albany, New York 12255, (518) 474-5592, email: regcomments@hesc.ny.gov

Regulatory Impact Statement

Statutory authority:

The New York State Higher Education Services Corporation’s (HESC) statutory authority to promulgate regulations and administer Enhanced Tuition Awards (Program) is codified within Article 14 of the Education Law. In particular, Chapter 59 of the 2017 Laws of New York created the Program by adding a new section 667-d to the Education Law. Subdivision 9 of section 667-d of the Education Law authorizes HESC to promulgate emergency regulations for the purpose of administering this Program.

Pursuant to Education Law § 652(2), HESC was established for the purpose of improving the post-secondary educational opportunities of eligible students through the centralized administration of New York State institutional and coordinating the State’s administrative effort in student financial aid programs with those of other levels of government.

In addition, Education Law § 653(9) empowers HESC’s Board of Trustees to perform such other acts as may be necessary or appropriate to carry out the objects and purposes of the corporation including the promulgation of rules and regulations.

HESC’s President is authorized, under Education Law § 655(4), to propose rules and regulations, subject to approval by the Board of Trustees, governing, among other things, the application for and the granting and administration of student aid and loan programs, the repayment of loans or the guarantee of loans made by HESC; and administrative functions in support of state student aid programs. Also, consistent with Education Law § 655(9), HESC’s President is authorized to receive assistance from any Division, Department or Agency of the State in order to properly carry out his or her powers, duties and functions. Finally, Education Law § 655(12) provides HESC’s President with the authority to perform such other acts as may be necessary or appropriate to carry out effectively the general objects and purposes of HESC.

Legislative objectives:
The Education Law was amended to add a new section 667-d to create the Enhanced Tuition Awards program (Program). This Program is aimed at reducing tuition costs and accelerating completion rates for students who attend a private college in New York State.

Needs and benefits:
Many studies have underscored the importance of a college degree in today’s global economy. According to a report by the Center on Education and the Workforce (CEW) at Georgetown University, by 2020, 65 percent of all jobs will require some form of postsecondary education or training, compared to 59 percent of jobs in 2010. The CEW report finds that having a skilled workforce is critical if the United States is to “remain competitive, attract the right type of industry, and engage the right type of talent in a knowledge-based and innovative economy.” At the current pace, the United States will fall short of its skilled workforce needs by 5 million workers. The disparity in earning potential between high school graduates and college graduates has never been greater, nor has the student loan debt – which stands at $1.3 trillion – being carried by those who have pursued a postsecondary education.

Recognizing the growing need for workers with postsecondary education and training, the wage earnings benefits for those with training beyond high school, the rapidly rising college costs and mounting student loan debt, this Program awards students up to $6,000 to offset students’ tuition costs through a combination of a New York State Tuition Assistance Program (TAP) award, the Enhanced Tuition Award and a match from those private colleges who elect to participate in the Program. When fully phased in, Program awards will be available to resident, undergraduate students from households with incomes of up to $125,000. To be eligible for a Program award, students must be on track to complete an associate’s degree in two years or a bachelor’s degree in four years by taking at least 30 credits each year. Payments will be made directly to colleges and universities on behalf of students upon certification of their successful completion of the academic term.

Students receiving Enhanced Program Awards must sign a contract agreeing to live in New York State for the number of years equal to the duration of the award received and, if employed, work within the State during this time. Recipients who do not satisfy this obligation will have the value of their awards converted to an interest-free student loan.

Costs:
a. It is anticipated that there will be no costs to the agency for the implementation of, or continuing compliance with this rule.
b. Private colleges that opt to participate in the Program are required to credit each recipient's remaining tuition expenses in an amount equal to the recipient’s award (“matching award”). Such credit will be applied after the recipient has received an institutional aid package, if any, to ensure that this program does not reduce institutional aid that would otherwise be granted. The maximum amount of the matching award to a recipient is $3,000.
c. The maximum cost of the program to the State is $19 million in the first year based upon budget estimates.
has potential positive impacts inasmuch as it implements a statutory student financial aid program that provides tuition benefits to college students who pursue their undergraduate studies at a New York State private institution of higher education. Students will be rewarded for remaining and working in New York, which will benefit the State as well.

Long Island Power Authority

NOTICE OF ADOPTION

PSEG Long Island’s Balanced Billing Program

I.D. No. LPA-41-16-00007-A
Filing Date: 2017-05-30
Effective Date: 2017-05-30

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: The Long Island Power Authority adopted modifications to its Tariff for Electric Service to implement improvements to PSEG Long Island’s balanced billing program.

Statutory authority: Public Authorities Law, section 1020-f(u) and (z)

Subject: PSEG Long Island’s balanced billing program.

Purpose: To implement improvements to the balanced billing program.

Substance of final rule: The Authority adopted changes to its Tariff to make improvements to its balanced billing program. The balanced billing program improvements include better forecasting of customer bills, reducing the number of times the bill amount changes during the year, and offering customers greater flexibility regarding treatment of any balance outstanding at the end of the plan year. The goal of the proposed changes to the balanced billing program is to create a more stable annual budget program for PSEG Long Island residential customers, where residential customers would enroll and pay a set monthly amount for twelve months based on a twelve-month projection of costs including fuel. For residential customers, underpaid balances at the end of the Balanced Billing plan year will rollover automatically into the customer’s next Balanced Billing plan unless the customer elects to pay the balance in a lump sum. This feature will be applicable only to residential customers participating in the new Balanced Billing program that are current or that have arrears of 30 days or less. As before the changes were made, the accounts of residential customers enrolled in Balanced Billing will be reviewed twice a year, including the year-end review, and if warranted the Service Provider may reset the Balanced Billing monthly payment amount in order to reduce seasonal variances and minimize customer’s final balance at the end of each plan year.

For non-residential customers, the reviews will continue to be made every quarter in the Balanced Billing plan year and the Balanced Billing monthly charge will be adjusted as required. As under the existing Tariff, non-residential customers will continue to be ineligible for rollover at the end of the Balance Billing plan year.

The proposed Tariff changes will also clarify customer eligibility as follows: 1) eligible customers must have sufficient usage history available to accurately project the Balanced Billing yearly projected amount; 2) for Net Metering Customers, the usage history must be derived from billing periods during which the Customers were enrolled in net metering; and 3) Service Classification No. 2 MRK customers cannot participate.

Final rule as compared with last published rule: Nonsubstantive changes were made in Leaves 109-110A.

Text of rule and any required statements and analyses may be obtained from: Justin Bell, Long Island Power Authority, 333 Earle Ovington Blvd, Suite 403, Uniondale, NY 11553, (516) 719-9886, email: jbell@lipower.org

Revised Regulatory Impact Statement
A revised regulatory impact statement is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Regulatory Flexibility Analysis
A revised regulatory flexibility analysis is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Rural Area Flexibility Analysis
A revised rural area flexibility analysis is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.
Revised Job Impact Statement
A revised job impact statement is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Assessment of Public Comment
An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

NOTICE OF ADOPTION
The Authority’s Power Supply Charge
I.D. No. LP-A-41-16-00008-A
Filing Date: 2017-05-30
Effective Date: 2017-05-30

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: The Long Island Power Authority adopted modifications to its Tariff for Electric Service to move certain capacity related power supply costs from base rates to the Authority’s Power Supply Charge.

Statutory authority: Public Authorities Law, section 1020-f(u) and (z)
Subject: The Authority’s Power Supply Charge.

Purpose: To move certain capacity related power supply costs from base rates to the Authority’s Power Supply Charge.

Text or summary was published in the October 12, 2016 issue of the Register, I.D. No. LP-A-41-16-00008-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Justin Bell, Long Island Power Authority, 333 Earle Ovington Blvd., Suite 403, Uniondale, NY 11553, (516) 719-9886, email: jbell@lipower.org

Revised Regulatory Impact Statement
A revised regulatory impact statement is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Regulatory Flexibility Analysis
A revised regulatory flexibility analysis is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Rural Area Flexibility Analysis
A revised rural area flexibility analysis is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Job Impact Statement
A revised job impact statement is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Regulatory Impact Statement
A revised regulatory impact statement is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Regulatory Flexibility Analysis
A revised regulatory flexibility analysis is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Rural Area Flexibility Analysis
A revised rural area flexibility analysis is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Job Impact Statement
A revised job impact statement is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

NOTICE OF ADOPTION
The Authority’s Revenue Decoupling Mechanism
I.D. No. LP-A-41-16-00010-A
Filing Date: 2017-05-30
Effective Date: 2017-05-30

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: The Long Island Power Authority adopted modifications to its Tariff for Electric Service to make revisions to the Revenue Decoupling Mechanism (“RDM”) to change the RDM from a semi-annual to an annual rate resetting process.

Statutory authority: Public Authorities Law, section 1020-f(u) and (z)
Subject: The Authority’s Revenue Decoupling Mechanism.

Purpose: To change the RDM from a semi-annual to an annual rate resetting process.

Substance of final rule: As background, the Authority implemented a revenue decoupling mechanism (“RDM”) on April 1, 2015, in order to ensure that it collects only its approved revenues for Delivery Service from customers. The purpose of the RDM is to help the Authority achieve financial stability without the conflicting pressures that are created by the pursuit of energy efficiency and renewable goals which reduce electric sales.

Previously, the RDM rate was reset semi-annually in March and September. Now, in adopting the current proposal, the semi-annual recovery periods we be replaced by annual recovery periods. This change will align the start of the annual RDM recovery period with annual rate changes in January and smooth the amount of refunds or charges over twelve months based on forecast sales, with the goal of increasing customer rate stability and reducing the frequency of rate changes. The change is revenue neutral and financially neutral to LIPA and its customers over the year.

The Department of Public Service (“DPS”) provided favorable comments in support of the RDM tariff proposal and recommended two adjustments to the proposal. One adjustment authorizes the staff to reflect anticipated variances for the coming year in the calculation, up to the amount of variance that has been experienced as of the date the calculation is performed. The other adjustment leaves the trigger value for early adjustment of the Revenue Decoupling Mechanism before the end of any year at $20 million due to or due from customers. The Authority Staff has incorporated these adjustments into its proposal.

Final rule as compared with last published rule: Nonsubstantive changes were made in Leaf 182M.
NOTICE OF ADOPTION

The Authority’s Dynamic Load Management Programs

I.D. No. LPA-11-17-00013-A
Filing Date: 2017-05-30
Effective Date: 2017-06-01

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: The Long Island Power Authority adopted modifications to its Tariff for Electric Service (“Tariff”) to update its dynamic load management programs in order to be consistent with New York Public Service Commission (“PSC”) policy.

Statutory authority: Public Authorities Law, section 1020-f(u) and (z)

Subject: The Authority’s dynamic load management programs.

Purpose: To update the Authority’s dynamic load management programs consistent with changes being made by other New York utilities.

Substance of final rule: As background, on April 1, 2016, the Authority modified its Tariff to add three dynamic load management programs, a Commercial System Relief Program (“CSRP”) to shave peak load, a Distribution Load Relief Program (“DLRP”) to support local reliability, and a Direct Load Control (“DLC”) Program focused on residential and small commercial customers.

Now, in adopting the current proposal, the Authority has adopted changes to the dynamic load management provisions of the Tariff to increase the enrollment in, participation in, and effectiveness of the Authority’s dynamic load management programs, and to make the programs consistent with the policies and principles set forth in the Order Adopting Dynamic Load Management Program Changes with Modifications issued by the New York Public Service Commission (“PSC”) in Proceeding No. 14-E-0423, which directed the regulated New York utilities to make changes to their dynamic load management programs.

The proposed changes include:

- Lowering the minimum amount of load relief an aggregator must enroll;
- Reducing limitations on when customers may enroll;
- Eliminating performance penalties from the commercial system relief program;
- Calling planned events more often;
- Letting Transmission voltage customers participate in the CSRP and DLRP program;
- Allowing the Authority greater flexibility to offer higher payments in areas that have greater need for load relief and higher avoided costs;
- Lowering the participation requirement to 50% of all events, down from 80% of all events in the direct load control program;
- Nonsubstantial changes.

The Department of Public Service (“DPS”) has reviewed and is supportive of the dynamic load management proposals, and has made three comments. The first comment from the DPS is that the Authority should consider making a change to the Commercial System Relief Program that the Public Service Commission recently approved for Orange & Rockland’s Commercial System Relief Program, which allows O&R to issue an advisory notice at least 21 hours before a CSRP event is called, subject to confirmation at least 2 hours prior to the event. Before this change was made, CSRP events were called 21 hours in advance, and the utilities had no way of canceling a CSRP event if circumstances changed such that the event was no longer needed after it was called. The staff of the Authority and PSEG Long Island are supportive of this recommendation and have revised the proposed Tariff leaves accordingly.

The second comment from the DPS is that transmission-voltage customers should not be allowed to participate in the DLRP. The purpose of the DLRP is to support the reliability of the distribution system, and load reduction by transmission-voltage customers generally has no impact on distribution system reliability. The staff of the Authority and PSEG Long Island are supportive of this recommendation and have revised the proposed Tariff leaves accordingly.

The third comment from the DPS staff comment is that the tariff should make clear that the Authority’s ability to exclude certain geographic areas from the DLC program is intended to be used in coordination with non-utility alternative solutions, such as those under development in the South Fork of Long Island. The staff of the Authority and PSEG Long Island are supportive of this recommendation and have revised the proposed Tariff leaves accordingly.

Final rule as compared with last published rule: Nonsubstantial changes were made in Leaves 327, 333 and 341.

Text of rule and any required statements and analyses may be obtained from: Justin Bell, Long Island Power Authority, 333 Earle Ovington Blvd, Suite 403, Uniondale, NY 11553, (516) 719-9886, email: jbell@lipower.org
Revised Regulatory Impact Statement
A revised regulatory impact statement is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Regulatory Flexibility Analysis
A revised regulatory flexibility analysis is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Rural Area Flexibility Analysis
A revised rural area flexibility analysis is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Job Impact Statement
A revised job impact statement is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Assessment of Public Comment
An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

NOTICE OF ADOPTION

Street Lighting Provisions of the Authority’s Tariff
I.D. No. LPA-11-17-00014-A
Filing Date: 2017-05-30
Effective Date: 2018-01-01

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: The Long Island Power Authority adopted updates to the Authority’s Tariff for Electric Service to clarify provisions regarding notification of street lighting changes and resulting billing modifications.

Statutory authority: Public Authorities Law, section 1020-f(u) and (z)

Subject: Street lighting provisions of the Authority’s Tariff.

Purpose: To clarify provisions regarding notification of street lighting changes and resulting billing modifications.

Text or summary was published in the March 15, 2017 issue of the Register, I.D. No. LPA-11-17-00014-A.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Justin Bell, Long Island Power Authority, 333 Earle Ovington Blvd., Suite 403, Uniondale, NY 11553, (516) 719-9886, email: jbell@lipower.org

Revised Regulatory Impact Statement
A revised regulatory impact statement is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Regulatory Flexibility Analysis
A revised regulatory flexibility analysis is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Rural Area Flexibility Analysis
A revised rural area flexibility analysis is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Job Impact Statement
A revised job impact statement is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Assessment of Public Comment
An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

NOTICE OF ADOPTION

Office of Parks, Recreation and Historic Preservation

Amendments For Regulations Governing Use of Boats and Watercraft and Control of Invasive Aquatic Species
I.D. No. PKR-13-17-00011-A
Filing No. 384
Filing Date: 2017-05-30
Effective Date: 2017-06-14

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of section 377.1(i) and (j) of Title 9 NYCRR.

Statutory authority: Parks, Recreation and Historic Preservation Law, section 5.09(8)

Subject: Amendments for regulations governing use of boats and watercraft and control of invasive aquatic species.

Purpose: To make general updates and technical amendments and to clarify permissible inflatable watercraft types.

Text or summary was published in the March 29, 2017 issue of the Register, I.D. No. PKR-13-17-00011-A.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Shari Calnero, Associate Counsel, NYS OPRHP, 625 Broadway, Albany, NY 12238, (518) 486-2921, email: rule.making@parks.ny.gov

Assessment of Public Comment
The agency received no public comment.

Public Service Commission

NOTICE OF ADOPTION

Use of Gas Interface Management Units
I.D. No. PSC-29-16-00023-A
Filing Date: 2017-05-24
Effective Date: 2017-05-24

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: On 5/18/17, the PSC adopted an order approving Orange and Rockland Utilities, Inc. (O&R) and Consolidated Edison Company of New York, Inc.’s (Con Edison) joint petition to use the Silver Spring Networks Gas Interface Management Unit IMU300 and IMU300A.

Statutory authority: Public Service Law, section 67(1)

Subject: Use of gas interface management units.

Purpose: To approve O&R and Con Edison’s joint petition to use the Silver Spring IMU300 and IMU300A.

Substance of final rule: The Commission, on May 18, 2017, adopted an order approving Orange and Rockland Utilities, Inc. and Consolidated Edison Company of New York, Inc.’s joint petition to use the Silver Spring Networks Residential Gas Interface Management Unit IMU300 and IMU300A ancillary devices for use in residential gas metering applications in New York State, subject to the terms and conditions set forth in the order.

Final rule as compared with last published rule: No changes.

Text of rule may be obtained from: John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment
An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.
(16-G-0378SA1)

NOTICE OF ADOPTION

Limited Waiver of Certain Commission Rules in 16 NYCRR Parts 890 and 895
L.D. No. PSC-49-16-00004-A
Filing Date: 2017-05-25
Effective Date: 2017-05-25

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: On 5/18/17, the PSC adopted an order approving Citizens Telecommunications Company of New York, Inc.’s (Citizens) petition for certain waivers associated with its cable television franchise agreement for the Town of Deerpark.

Statutory authority: Public Service Law, sections 215, 216 and 221
Subject: Limited waiver of certain Commission rules in 16 NYCRR Parts 890 and 895.
Purpose: To approve Citizens’ petition for certain waivers associated with its cable television franchise.

Substance of final rule: The Commission, on May 18, 2017, adopted an order approving Citizens Telecommunications Company of New York, Inc.’s petition for limited waivers of certain Commission rules in 16 NYCRR Parts 890 and 895 and denied the Public, Educational and Governmental access waivers, associated with its cable television franchise agreement for the Town of Deerpark, subject to the terms and conditions set forth in the order.

Final rule as compared with last published rule: No changes.

Text of rule may be obtained from: John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment
An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(16-V-0575SA1)

NOTICE OF ADOPTION

Limited Waiver of Certain Commission Rules in 16 NYCRR Parts 890 and 895
L.D. No. PSC-49-16-00007-A
Filing Date: 2017-05-25
Effective Date: 2017-05-25

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: On 5/18/17, the PSC adopted an order approving Citizens Telecommunications Company of New York, Inc.’s (Citizens) petition for certain waivers associated with its cable television franchise agreement for the City of Port Jervis.

Statutory authority: Public Service Law, sections 215, 216 and 221
Subject: Limited waiver of certain Commission rules in 16 NYCRR Parts 890 and 895.
Purpose: To approve Citizens’ petition for certain waivers associated with its cable television franchise.

Substance of final rule: The Commission, on May 18, 2017, adopted an order approving Citizens Telecommunications Company of New York, Inc.’s petition for limited waivers of certain Commission rules in 16 NYCRR Parts 890 and 895 and denied the Public, Educational and Governmental access waivers, associated with its cable television franchise agreement for the City of Port Jervis, subject to the terms and conditions set forth in the order.

Final rule as compared with last published rule: No changes.

Text of rule may be obtained from: John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment
An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(16-V-0668SA1)

NOTICE OF ADOPTION

Submetering of Electricity
L.D. No. PSC-50-16-00005-A
Filing Date: 2017-05-24
Effective Date: 2017-05-24

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: On 5/18/17, the PSC adopted an order approving 2 North 6th Place Owner, LLC’s (2 North) notice of intent to submeter electricity at 2 North 6th Place, Brooklyn, New York.

Statutory authority: Public Service Law, sections 2, 4(1), 30, 32-48, 52, 53, 65(1), 66(1), (2), (3), (4), (12) and (14)
Subject: Submetering of electricity.
Purpose: To approve 2 North’s notice of intent to submeter electricity.

Substance of final rule: The Commission, on May 18, 2017, adopted an order approving 2 North 6th Place Owner, LLC’s (2 North) notice of intent to submeter electricity at 2 North 6th Place, Brooklyn, New York, located in the service territory of Consolidated Edison Company of New York, Inc., subject to the terms and conditions set forth in the order.

Final rule as compared with last published rule: No changes.

Text of rule may be obtained from: John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment
An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(16-E-0676SA1)

NOTICE OF ADOPTION

Limited Waiver of Certain Commission Rules in 16 NYCRR Parts 890 and 895
L.D. No. PSC-49-16-00004-A
Filing Date: 2017-05-25
Effective Date: 2017-05-25

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: On 5/18/17, the PSC adopted an order approving Citizens Telecommunications Company of New York, Inc.’s (Citizens) petition for certain waivers associated with its cable television franchise agreement for the City of Port Jervis.

Statutory authority: Public Service Law, sections 215, 216 and 221
Subject: Limited waiver of certain Commission rules in 16 NYCRR Parts 890 and 895.
Purpose: To approve Citizens’ petition for certain waivers associated with its cable television franchise.

Substance of final rule: The Commission, on May 18, 2017, adopted an order approving Citizens Telecommunications Company of New York, Inc.’s petition for limited waivers of certain Commission rules in 16 NYCRR Parts 890 and 895 and denied the Public, Educational and Governmental access waivers, associated with its cable television franchise agreement for the City of Port Jervis, subject to the terms and conditions set forth in the order.

Final rule as compared with last published rule: No changes.

Text of rule may be obtained from: John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment
An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.
NOTICE OF ADOPTION

Limited Waiver of Certain Commission Rules in 16 NYCRR Parts 890 and 895
I.D. No. PSC-52-16-00004-A
Filing Date: 2017-05-25
Effective Date: 2017-05-25

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:
Action taken: On 5/18/17, the PSC adopted an order approving Frontier Communications of New York, Inc.’s (Frontier) petition for certain waivers associated with its cable television franchise agreement for the Village of Montgomery.
Statutory authority: Public Service Law, sections 215, 216 and 221
Subject: Limited waiver of certain Commission rules in 16 NYCRR Parts 890 and 895.
Purpose: To approve Frontier’s petition for certain waivers associated with its cable television franchise.
Substance of final rule: The Commission, on May 18, 2017, adopted an order approving Frontier Communications of New York, Inc.’s petition for limited waivers of certain Commission rules in 16 NYCRR Parts 890 and 895 and denied the Public, Educational and Governmental access waivers, associated with its cable television franchise agreement for the Village of Montgomery, subject to the terms and conditions set forth in the order.
Final rule as compared with last published rule: No changes.
Text of rule may be obtained from: John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.
Assessment of Public Comment
An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.
(16-V-0698SA1)

NOTICE OF ADOPTION

Limited Waiver of Certain Commission Rules in 16 NYCRR Parts 890 and 895
I.D. No. PSC-52-16-00007-A
Filing Date: 2017-05-25
Effective Date: 2017-05-25

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:
Action taken: On 5/18/17, the PSC adopted an order approving Frontier Communications of New York, Inc.’s (Frontier) petition for certain waivers associated with its cable television franchise agreement for the Village of Chester.
Statutory authority: Public Service Law, sections 215, 216 and 221
Subject: Limited waiver of certain Commission rules in 16 NYCRR Parts 890 and 895.
Purpose: To approve Frontier’s petition for certain waivers associated with its cable television franchise.
Substance of final rule: The Commission, on May 18, 2017, adopted an order approving Frontier Communications of New York, Inc.’s petition for limited waivers of certain Commission rules in 16 NYCRR Parts 890 and 895 and denied the Public, Educational and Governmental access waivers, associated with its cable television franchise agreement for the Village of Chester, subject to the terms and conditions set forth in the order.
Final rule as compared with last published rule: No changes.
Text of rule may be obtained from: John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.
Assessment of Public Comment
An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.
(16-V-0002SA1)

NOTICE OF ADOPTION

Limited Waiver of Certain Commission Rules in 16 NYCRR Parts 890 and 895
I.D. No. PSC-06-17-00006-A
Filing Date: 2017-05-25
Effective Date: 2017-05-25

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:
Action taken: On 5/18/17, the PSC adopted an order approving Citizens Telecommunications Company of New York, Inc.’s (Citizens) petition for certain waivers associated with its cable television franchise agreement for the City of Middletown.
Statutory authority: Public Service Law, sections 215, 216 and 221
Subject: Limited waiver of certain Commission rules in 16 NYCRR Parts 890 and 895.
Purpose: To approve Citizens’ petition for certain waivers associated with its cable television franchise.
Substance of final rule: The Commission, on May 18, 2017, adopted an order approving Citizens Telecommunications Company of New York, Inc.’s petition for limited waivers of certain Commission rules in 16 NYCRR Parts 890 and 895 and denied the Public, Educational and Governmental access waivers, associated with its cable television franchise agreement for the City of Middletown, subject to the terms and conditions set forth in the order.
Final rule as compared with last published rule: No changes.
Text of rule may be obtained from: John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.
Assessment of Public Comment
An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.
(17-V-00004SA1)
**NOTICE OF ADOPTION**

**Submetering of Electricity**

I.D. No.  PSC-07-17-00011-A  
Filing Date:  2017-05-24  
Effective Date:  2017-05-24

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** On 5/18/17, the PSC adopted an order approving One West End Condominium’s petition to submeter electricity at 1 West End Avenue, New York, New York.

**Statutory authority:** Public Service Law, sections 2, 4(1), 30, 32-48, 52, 53, 65(1), 66(1), (2), (3), (4), (12) and (14)

**Subject:** Submetering of electricity.

**Purpose:** To approve One West End’s petition to submeter electricity.

**Substance of final rule:** The Commission, on May 18, 2017, adopted an order approving One West End Condominium’s petition to submeter electricity at 1 West End Avenue, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc., subject to the terms and conditions set forth in the order.

**Final rule as compared with last published rule:** No changes.

**Text of rule may be obtained from:** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

**Assessment of Public Comment**

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(16-E-0665SA1)

**NOTICE OF ADOPTION**

**Extension of Loan Repayment Schedule**

I.D. No.  PSC-09-17-00009-A  
Filing Date:  2017-05-24  
Effective Date:  2017-05-24

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** On 5/18/17, the PSC adopted an order approving Great Expectations’ petition to extend its existing loan payment schedule by three years, or until 2022.

**Statutory authority:** Public Service Law, sections 89-b, 89-c and 89-f

**Subject:** Extension of loan repayment schedule.

**Purpose:** To approve Great Expectations’ petition to extend its existing loan payment schedule by three years, or until 2022.

**Substance of final rule:** The Commission, on May 18, 2017, adopted an order approving Great Expectations, LLC’s petition to extend its existing loan payment schedule by three years, or until 2022, subject to the terms and conditions set forth in the order.

**Final rule as compared with last published rule:** No changes.

**Text of rule may be obtained from:** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

**Assessment of Public Comment**

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(17-W-0015SA1)

**PROPOSED RULE MAKING**

**NO HEARING(S) SCHEDULED**

**Extension of Loan Repayment Schedule**

I.D. No.  PSC-24-17-00006-P  
Filing Date:  2017-05-24  
Effective Date:  2017-05-24

**Purpose:** Improved data access.

**Substance of proposed rule:** The Public Service Commission (Commission) is considering requiring large, investor-owned energy utilities, including Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., KeySpan Gas East Corporation, The Brooklyn Union Gas Company, National Fuel Gas Distribution Corporation, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation/ d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation, to populate and regularly update an online Utility Energy Registry hosted by the New York State Energy Research and Development Authority (NYSERDA). The full text may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject, or modify, in whole or in part, the proposal and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/h6dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov**

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

**Public comment will be received until:** 45 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(14-M-0224SP15)

**PROPOSED RULE MAKING**

**NO HEARING(S) SCHEDULED**

**Toll Commencement Date; Allow Changes to Performance Metrics; Correct Language; Allow Service Termination; Reconcile Orders**

I.D. No.  PSC-24-17-00007-P  
Filing Date:  2017-05-24  
Effective Date:  2017-05-24

**Purpose:** To consider requests for rehearing, reconsideration or clarification of the April 20, 2017 Order Establishing Statewide Inspection Schedules and Procedural Requirements.

**Statutory authority:** Public Service Law, sections 65 and 66

**Subject:** Toll commencement date; allow changes to performance metrics; correct language; allow service termination; reconcile orders.

**Preferred Hearing(s):**

**Assessment of Public Comment**

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(17-W-0015SA1)

**PROPOSED RULE MAKING**

**NO HEARING(S) SCHEDULED**

**Development of the Utility Energy Registry**

I.D. No.  PSC-24-17-00006-P  
Filing Date:  2017-05-24  
Effective Date:  2017-05-24

**Purpose:** To approve Great Expectations’ petition to extend its existing loan payment schedule by three years, or until 2022.

**Substance of final rule:** The Commission, on May 18, 2017, adopted an order approving One West End Condominium’s petition to submeter electricity at 1 West End Avenue, New York, New York.

**Statutory authority:** Public Service Law, sections 5(1)(b), (2), 65(1), 66(2) and (10)

**Subject:** Development of the Utility Energy Registry.

**Purpose:** To approve One West End Condominium’s petition to submeter electricity.

**Substance of final rule:** The Commission, on May 18, 2017, adopted an order approving One West End Condominium’s petition to submeter electricity at 1 West End Avenue, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc., subject to the terms and conditions set forth in the order.

**Final rule as compared with last published rule:** No changes.

**Text of rule may be obtained from:** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

**Assessment of Public Comment**

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(16-E-0665SA1)
(NFG), Consolidated Edison Company of New York, Inc. (Con Edison), the Northeast Gas Association (NGA), The Brooklyn Union Gas Company d/b/a National Grid, and Niagara Mohawk Power Corporation d/b/a National Grid (collectively, National Grid) filed petitions for rehearing, reconsideration or clarification seeking to revise the April 20 Order. Central Hudson Gas & Electric (Central Hudson), and St. Lawrence Gas Co. (St. Lawrence), submitted letters in support of NGA’s Petition. Most of the petitions seek clarification of two language errors in the body of the order, which conflict with the regulations and one ordering clause, and request a confirmation that all LDCs, not only Con Edison (as stated in the April 20 Order), may count inspections performed since issuance of the Department of Public Service’s 2015 Strategic Approach towards meeting the baseline requirements. Most of the petitions ask that the Commission toll the official commencement date of the inspections to December 31, 2017 and that the Commission authorize LDCs to seek adjustments to any of their rate plans’ customer metrics that may be affected by the new $100 charge in tariffs when a customer fails to allow access to a premises for inspections. NFG asks that the Commission reconsider the requirement that customers who refuse access first be charged $100 and only have their gas service terminated after failure to pay such charge. NFG seeks instead that LDCs be authorized to terminate service solely for failure to provide access. Con Edison seeks a reconciliation and resolution of a conflict between the last Con Edison rate order, in Case 16-G-0061 (Order Approving Electric and Gas Rate Plans, issued January 25, 2017) and the April 20 Order with respect to how Con Edison’s costs for the inspections may be recovered from ratepayers. The full text of the proposal may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. Upon conducting its evaluation of the petitions, the Commission may reaffirm its initial decision or adhere to it with additional rationale in denying the petitions, modify or reverse the decision in granting the petitions in whole or in part and take such other or further action as it deems necessary with respect to the petitions. However, the Commission will limit its review to the issues raised by the above-referenced petitions.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-G-0244SP2)

PROPOSED RULE MAKING

NO HEARING(S) SCHEDULED

Notice of Intent to Submeter Electricity

L.D. No. PSC-24-17-00008-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Public Service Commission is considering the Notice of Intent of 320 East 82nd Owner, LLC to submeter electricity at 320 East 82nd Street, New York, New York.

Statutory authority: Public Service Law, sections 2, 4(1), 30, 32-48, 52, 53, 65(1), 66(1), (2), (3), (4), (12) and (14)

Subject: Notice of Intent to submeter electricity.

Purpose: To consider the Notice of Intent of 320 East 82nd Owner, LLC to submeter electricity at 320 East 82nd Street, New York, NY and a waiver request of 16 NYCRR § 96.5(k)(3).

Substance of proposed rule: The commission is considering the Notice of Intent of 320 East 82nd Owner, LLC, filed on April 18, 2017, to submeter electricity at 1013 West Street, Utica, New York, located in the service territory of Niagara Mohawk Power Corporation d/b/a National Grid. The Commission is also considering the Owner’s request for a waiver of 16 NYCRR § 96.5(k)(3), which requires proof that an energy audit has been conducted when 20 percent or more of the residents receive income-based housing assistance. The full text of the petition and waiver request may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

 Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(17-E-0199SP1)

PROPOSED RULE MAKING

NO HEARING(S) SCHEDULED

Petition to Submeter Electricity and Waiver Request

L.D. No. PSC-24-17-00009-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Public Service Commission is considering the petition of West Street Apartments LLC, to submeter electricity at 1013 West Street, Utica, New York and waiver request of 16 NYCRR § 96.5(k)(3).

Statutory authority: Public Service Law, sections 2, 4(1), 30, 32-48, 52, 53, 65(1), 66(1), (2), (3), (4), (12) and (14)

Subject: Petition to submeter electricity and waiver request.

Purpose: To consider the petition to submeter electricity at 1013 West Street, Utica, NY and request for waiver of 16 NYCRR § 96.5(k)(3).

Substance of proposed rule: The Commission is considering the petition of West Street Apartment LLC (Owner), filed on April 18, 2017, to submeter electricity at 1013 West Street, Utica, New York, located in the service territory of Niagara Mohawk Power Corporation d/b/a National Grid. The Commission is also considering the Owner’s request for a waiver of 16 NYCRR § 96.5(k)(3), which requires proof that an energy audit has been conducted when 20 percent or more of the residents receive income-based housing assistance. The full text of the petition and waiver request may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

 Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(17-E-0199SP1)

PROPOSED RULE MAKING

NO HEARING(S) SCHEDULED

Petition to Submeter Electricity

L.D. No. PSC-24-17-00010-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Public Service Commission is considering the petition of Bay View Home Association, Inc. to submeter electricity at 671 47th Street, Brooklyn, New York.

Statutory authority: Public Service Law, sections 2, 4(1), 30, 32-48, 52, 53, 65(1), 66(1), (2), (3), (4), (12) and (14)
Subject: Petition to submeter electricity.

Purpose: To consider the petition of Bay View Home Association, Inc. to submeter electricity at 671 47th Street Brooklyn, New York.

Substance of proposed rule: The Commission is considering the petition of Bay View Home Association, Inc., filed on May 8, 2017, to submeter electricity at 671 47th Street, Brooklyn, New York, located in the service territory of Consolidated Edison Company of New York, Inc. The full text of the petition may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/F96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(17-E-0240SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Suez Water Westchester, Inc.’s Private Hydrant Rates

L.D. No. PSC-24-17-00011-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering whether to make Suez Water Westchester, Inc.’s private hydrant rates temporary and subject to refund.

Statutory authority: Public Service Law, sections 4(1), 20(1), 89-b, 89-c and 114

Subject: Suez Water Westchester, Inc.’s private hydrant rates.

Purpose: To consider whether Suez Water Westchester, Inc.’s private hydrant rates should be made temporary and subject to refund.

Substance of proposed rule: The Commission is considering whether to make Suez Water Westchester, Inc.’s (Suez Water Westchester) private hydrant rates temporary and subject to refund. On May 19, 2017, a group of New Rochelle Home Owner Associations filed a petition requesting that the Commission: issue a declaratory ruling stating that Suez Westchester’s rates for private hydrants are in violation of the Public Service Law’s requirement for just and reasonable rates; and make those rates temporary and subject to refund. The full text of the filing may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/F96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(17-E-0267SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Notice of Intent to Submeter Electricity and Waiver Request

L.D. No. PSC-24-17-00012-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Public Service Commission is considering the Notice of Intent of Melrose Commons Supportive Housing, L.P. to submeter electricity at 425 East 161 Street, Bronx, New York and request for a waiver of 16 NYCRR § 96.5(k)(3).

Statutory authority: Public Service Law, sections 2, 4(1), 30, 32-48, 52, 53, 65(1), 66(1), (2), (3), (4), (12) and (14)

Subject: Notice of Intent to submeter electricity and waiver request.

Purpose: To consider the Notice of Intent to submeter electricity at 425 East 161 Street and waiver request of 16 NYCRR § 96.5(k)(3).

Substance of proposed rule: The Commission is considering the Notice of Intent of Melrose Commons Supportive Housing, L.P. (Melrose Commons), filed on May 11, 2017, to submeter electricity at 425 East 161 Street, Bronx, New York, located in the service territory of Consolidated Edison Company of New York, Inc. The Commission is also considering Melrose Commons’ request for a waiver of 16 NYCRR § 96.5(k)(3), which requires proof that an energy audit has been conducted when 20 percent or more of the residents receive income-based housing assistance. The full text of the Notice of Intent and waiver request may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/F96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(17-E-0267SP1)
PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Alternative Methodology for Calculating Billing Adjustments

I.D. No. PSC-24-17-00014-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Public Service Commission is considering a petition filed by UtiliSave, LLC requesting that Consolidated Edison Company of New York, Inc. be directed to adopt an alternative methodology for calculating billing adjustments proposed by UtiliSave, LLC.

Statutory authority: Public Service Law, sections 5(1), 39(1) and 66(1)

Subject: Alternative methodology for calculating billing adjustments.

Purpose: To consider an alternative methodology for calculating billing adjustments.

Substance of proposed rule: The Public Service Commission (Commission) is considering a petition filed by UtiliSave, LLC (UtiliSave) on May 3, 2017, requesting that Consolidated Edison Company of New York, Inc. (Con Edison) be directed to adopt an alternative methodology for calculating billing adjustments proposed by UtiliSave, LLC, in addition to the two methodologies currently used by Con Edison. The full text of the petition may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the petition proposed and may resolve other related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(17-E-0253SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Notice of Intent to Submeter Electricity

I.D. No. PSC-24-17-00015-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Public Service Commission is considering the Notice of Intent of 56 Leonard Street Condominium to submeter electricity at 56 Leonard Street, New York, New York.

Statutory authority: Public Service Law, sections 2, 4(1), 30, 32-48, 52, 53, 65(1), 66(1), (2), (3), (4), (12) and (14)

Subject: Notice of Intent to submeter electricity.

Purpose: To consider the Notice of Intent of 56 Leonard Street Condominium to submeter electricity at 56 Leonard Street, New York, NY.

Substance of proposed rule: The Commission is considering the Notice of Intent of 56 Leonard Street Condominium, filed on May 8, 2017, to submeter electricity at 56 Leonard Street, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc. The full text of the Notice of Intent may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(17-E-0251SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Notice of Intent to Submeter Electricity

I.D. No. PSC-24-17-00016-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Public Service Commission is considering the Notice of Intent of 522-528 LLC to submeter electricity at 509 Pacific Street, Brooklyn, New York.

Statutory authority: Public Service Law, sections 5(1), 39(1) and 66(1), (2), (3), (4), (12) and (14)

Subject: Notice of Intent to submeter electricity.

Purpose: To consider the Notice of Intent of 522-528 LLC to submeter electricity at 509 Pacific Street, Brooklyn, New York.

Substance of proposed rule: The Commission is considering the Notice of Intent of 522-528 LLC, filed on April 25, 2017, to submeter electricity at 509 Pacific Street, Brooklyn, New York, located in the service territory of Consolidated Edison Company of New York, Inc. The full text of the Notice of Intent may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.
Department of Transportation

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Railroad Bridge Inventory and Inspection

I.D. No. TRN-24-17-00001-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: This is a consensus rule making to repeal Part 913 and add new Part 913 to Title 17 NYCRR.

Statutory authority: Transportation Law, section 14(18); and Highway Law, section 236(4).

Subject: Railroad Bridge Inventory and Inspection.

Purpose: Render state railroad bridge inspection and inventory regulations consistent with Title 49 CFR Part 237.

Text of proposed rule: 17 NYCRR Part 913 is hereby repealed. A new Part 913 is added to read as follows:

PART 913. RAILROAD BRIDGE INVENTORY AND INSPECTION

913.1 Purpose and authority.

This Part establishes and implements the program of railroad bridge inventory and inspection as directed by Highway Law Article IX, and is applicable to all railroads subject to this statute.

913.2 Railroad bridge inventory, inspections, and load rating.

The Commissioner of Transportation hereby adopts 49 CFR Part 237 and Appendix A thereto with regard to bridge safety standards with the same force and effect as though fully set forth at length herein, with the exception of 49 CFR 237.7 and Appendix B thereto.

913.3 Annual reporting.

(a) Each railroad shall submit its written bridge safety management program and inspection procedures to the department, upon request, within 30 days.

(b) Each railroad shall submit any specified inspection report (including diving inspection report as noted in Highway Law subdivisions 236(3)(c),(d)) upon request, within thirty business days.

(c) Consistent with the provisions of Highway Law subdivision 236(3)(e), on or prior to March 15th of each year, each railroad shall electronically file with the department an annual railroad bridge inventory, to include inspection details, load capacity and other relevant data collected or maintained pursuant to 49 CFR part 237, per the instructions set forth in the Department’s document ‘Railroad Bridge Reporting Details,’ available at URL: https://www.dot.ny.gov/divisions/engineering/structures/manuals/railroad-bridge-reporting-details. The annual report shall include a certification that each bridge within the state for which the railroad has responsibility has been inspected in accordance with the provisions of 49 CFR Part 237.

913.4 Department review.

Upon reasonable notice from the department, each railroad shall make all bridge inspection and inventory records available and accommodate field observations by department staff. While making such field observations, railroad safety procedures shall be followed. Advance notice shall be provided to the railroad of all scheduled field observations for which a railroad representative must be present.

913.5 Incorporation by reference.

The provisions of the Code of Federal Regulations which have been incorporated by reference in this Part have been filed in the Office of the Secretary of State of the State of New York, the publication so filed being the booklet entitled: Code of Federal Regulations Title 49 Parts 200 to 299 revised as of October 1, 2013, published by the Office of the Federal Register, National Archives and Records Administration, as a special edition of the Federal Register. The regulations incorporated by reference may be examined at the Office of the Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001, at the law libraries of the New York State Supreme Court, the Legislative Library, the New York State Department of Transportation, Office of Counsel or Motor Carrier Compliance Bureau, 50 Wolf Road, Albany, NY 12252. They may also be purchased from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. Copies of the Code of Federal Regulations are also available at many public libraries and bar association libraries.

Text of proposed rule and any required statements and analyses may be obtained from: Alan Black, Legal Assistant 2, NYSDOT, Office of Legal Services, 50 Wolf Road, Albany, NY 12232, (518) 485-9953, email: alan.black@dot.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Consensus Rule Making Determination

The New York State Department of Transportation (NYSDOT) has determined that no person is likely to object to the repeal and replacement of 17 NYCRR Part 913, RAILROAD BRIDGE INVENTORY AND INSPECTION, as herein proposed. Per State Administrative Procedure Act subdivision 102(11)(b), this rulemaking implements or conforms to non-discretionary statutory provisions pursuant to amendments made to Highway Law section 236 by Laws of 2016, Chapter 501, Section 4, which mandates that state regulations on inventory and inspection of railroad bridges be consistent with those of the Federal Railroad Administration in 49 CFR Part 237 via incorporation by reference. It requires inspecting track owners or their assignees, as the case may be, adopt bridge management programs, to inventory and annually inspect any railroad bridge(s) for which they have maintenance responsibility, and to file a certification with NYSDOT no later than March 15 of each calendar year, indicating that the inspections performed on the inventoried bridges during the calendar year preceding such certification determined each such inventoried bridge to meet applicable safety standards. Upon NYSDOT request, any specified bridge inspection report(s) shall be provided within 30 days.

Job Impact Statement

It is determined that this rulemaking will have no impact on jobs and employment opportunities.